

# Exhibit 74

1 IN THE CIRCUIT COURT OF COLE COUNTY, MISSOURI

2 CASE NO: 21AC-CC00044

3 TORCH ELECTRONICS, LLC, et al.,

4 Plaintiffs,

5 Vs.

6 THE MISSOURI DEPARTMENT OF PUBLIC SAFETY, et al.,

7 Defendants.

8 \_\_\_\_\_/

9  
10 DEPOSITION OF CORPORATE DESIGNEES FOR THE MISSOURI

11 GAMING COMMISSION - JAMES HORROM, TIM MCGRAIL, CODY

12 HANAVAN

13  
14 VOLUME 1 (Pages 1 - 182)

15  
16 Monday, July 10, 2023

17 12:54 p.m. - 4:39 p.m.

18  
19 Stinson, LLP

20 230 West McCarty, Jefferson City, Missouri 65101

21  
22 Stenographically Reported By:

23 Shelley Bartels, RPR, CCR

24  
25 Job No.: 148979

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1 Proceedings began at 12:54 p.m.:

2 COURT REPORTER: Would you raise your  
3 right hand please.

4 Do you solemnly swear the testimony  
5 you're about to give will be the truth, the whole  
6 truth, and nothing but the truth?

7 MR. HORROM: Yes.

8 MR. MCGRAIL: Yes.

9 MR. HANAVAN: Yes.

10 Thereupon:

11 JAMES HORROM, TIM MCGRAIL, CODY HANAVAN  
12 having been first duly sworn, were examined and  
13 testified as follows:

14 DIRECT EXAMINATION

15 MS. COSSETTE: Okay. Good afternoon.  
16 Hi, everyone. My name is Alix Cossette. I represent  
17 the plaintiffs in this case.

18 Since there are three of you, you have  
19 two of your counsel, I will apologize, I don't think  
20 I probably have quite enough copies of everything for  
21 everyone, so we'll just make it work here. But I'm  
22 going to mark as Exhibit MGC-1 as the notice of  
23 deposition. And I'm going to just hand that to you  
24 all.

25 And you all can sort of figure out how

1 you want to handle that.

2 (Exhibit MGC-1 was marked for  
3 identification.)

4 MS. COSSETTE: You know what, Greta, I'm  
5 going to have to take your copy.

6 Okay. Okay. So since there are three  
7 designees, I would like to go through the topics and  
8 ask who is designated for each topic.

9 So the first topic on the notice is the  
10 July 3rd, 2019 letter from the Missouri Gaming  
11 Commission to the St. James VFW Post 5608 regarding  
12 electronic devices.

13 MS. RICHENBERGER: That would be Deputy  
14 Director McGrail.

15 MS. COSSETTE: Okay. And can you state  
16 your name for the record --

17 MR. MCGRAIL: Sure.

18 MS. COSSETTE: -- please.

19 MR. MCGRAIL: It's Tim McGrail,  
20 M-c-G-r-a-i-l.

21 MS. COSSETTE: Okay. Great. Thank you  
22 very much.

23 And so for topic number two is the  
24 July 2nd Missouri Gaming Commission Device  
25 Examination Report completed by Todd Nelson and Jim



1 Horrom.

2 MS. RICHENBERGER: And that would be  
3 Mr. Horrom.

4 MS. COSSETTE: Okay. And can you please  
5 state your name for the record.

6 MR. HORROM: James Horrom, H-o-r-r-o-m.  
7 And I also go by Jim.

8 MS. COSSETTE: Great. And then topic  
9 three, Any examinations conducted by the Missouri  
10 Gaming Commission of devices owned by Torch  
11 Electronics, LLC.

12 MS. RICHENBERGER: That would be  
13 Mr. Horrom as well as Mr. Hanavan.

14 MS. COSSETTE: And, Mr. Hanavan, can you  
15 state your name for the record please.

16 MR. HANAVAN: It's Cody Hanavan,  
17 H-a-n-a-v-a-n.

18 MS. COSSETTE: And for topic three,  
19 Mr. Horrom, Mr. Hanavan, I'm going to pose a  
20 question, and I think that I will try to direct it to  
21 one of you, and if you don't believe that you can  
22 answer it, you can look to your -- your co-designee  
23 and see if they can answer it, if that makes sense.  
24 And if it doesn't work, we'll try something else. I  
25 know it's -- I just want to make sure we're keeping

1 our record straight.

2 And so for the fourth topic on MGC-1, Any  
3 examinations conducted by the Missouri Gaming  
4 Commission of devices with software created by  
5 Banilla Games. Who was designated for that?

6 MS. RICHENBERGER: That'll be the same  
7 designation, Mr. Hanavan and Mr. Horrom.

8 MS. COSSETTE: Okay. Great. So I'm  
9 going to -- I guess I'll go down the line.

10 Mr. McGrail, have you ever been deposed  
11 before?

12 MR. MCGRAIL: I have.

13 MS. COSSETTE: Okay. How many times  
14 approximately?

15 MR. MCGRAIL: Probably half a dozen.

16 MS. COSSETTE: Okay. And then,  
17 Mr. Horrom?

18 MR. HORROM: Once.

19 MS. COSSETTE: Once. And then,  
20 Mr. Hanavan?

21 MR. HANAVAN: Never have.

22 MS. COSSETTE: Never. Okay. So just a  
23 couple of quick things. The court reporter here is  
24 taking down everything you say, so if you can speak  
25 out loud. Don't nod your head, don't, you know,

1 shake your head, that kind of thing.

2 If you don't understand a question, I'm  
3 sure I'll ask you a bad question, will you let me  
4 know if you don't understand it please.

5 And I think the last thing, just for the  
6 room, we'll -- we've normally been taking a break  
7 every hour. If you need a break beforehand, let me  
8 know; we'll happily take a break. And if it's too  
9 hot in here, it feels a little warm to me because  
10 there's a lot of people, but I'm also sort of warm as  
11 a general matter, so.

12 Okay. Let's get started. The first  
13 thing I want to ask on the record though is  
14 Mr. McGrail, Mr. Horrom, Mr. Hanavan, you all  
15 understand that you are here to speak on behalf of  
16 the Missouri Gaming Commission. You can each just  
17 answer yes or no.

18 MR. MCGRAIL: Yes.

19 MR. HORROM: Yes.

20 MR. HANAVAN: Yes.

21 MS. COSSETTE: Okay. And that means that  
22 you are to testify to things known or, you know,  
23 should be known to the Gaming Commission.

24 MR. MCGRAIL: Yes.

25 MR. HORROM: Yes.

1 MR. HANAVAN: Yes.

2 MS. COSSETTE: Okay. And you all are  
3 here subject to a subpoena. Correct?

4 MR. MCGRAIL: Yes.

5 MR. HORROM: Yes.

6 MR. HANAVAN: Yes.

7 MS. COSSETTE: Okay. Great. Your  
8 counsel was nice enough to give us a business records  
9 affidavit, but I don't think we need to deal with  
10 that on the record.

11 So I think I actually want to start with  
12 topic three, so that's going to be Mr. Horrom,  
13 Mr. Hanavan. So, Mr. McGrail, you can hang out there  
14 for a minute.

15 So we spoke -- we had a deposition this  
16 morning of Captain Rogers from the Missouri State  
17 Highway Patrol. Mr. Horrom, Mr. Hanavan, do you know  
18 Captain Rogers?

19 MR. HORROM: No.

20 MR. HANAVAN: No.

21 MS. COSSETTE: Okay. He told us that a  
22 Sergeant Trammell with the Missouri State Highway  
23 Patrol has seized Torch device machines, machines  
24 owned by Torch. Do either of you know about that?

25 MR. HORROM: Yes.

1 MR. HANAVAN: Yes.

2 COURT REPORTER: And, I'm sorry, but you  
3 all will have to answer one at a time.

4 MS. COSSETTE: One at a time, yeah, and I  
5 apologize.

6 He testified that he believed that they  
7 were seized from Greene County.

8 Mr. Horrom, do you know if that's true,  
9 or do you agree that that's the case?

10 MR. HORROM: I do not know.

11 MS. COSSETTE: Okay. Mr. Hanavan, do you  
12 happen to know where they were seized from?

13 MR. HANAVAN: I'm not positive either.

14 MS. COSSETTE: Okay. And that's fine.  
15 Did either or both of you do an examination of those  
16 machines?

17 MR. HORROM: Not on the Greene County  
18 ones, no.

19 MR. HANAVAN: Do you know a city attached  
20 to the Greene County?

21 MS. COSSETTE: I don't unfortunately.  
22 But it's mostly just a way of me asking if either or  
23 both of you have ever done an examination on a  
24 Torch-owned device.

25 MR. HORROM: I have, yes.

1 MR. HANAVAN: Yes.

2 MS. COSSETTE: Okay. And do you know  
3 where those -- well, let's start with you,  
4 Mr. Horrom. Where do those devices or device come  
5 from that you did the examination on?

6 MR. HORROM: I've done three such  
7 investigations. One was in Branson, Missouri; one  
8 was in -- out of St. Clair, Missouri; and one was out  
9 of West Sullivan, Missouri.

10 MS. COSSETTE: And Sullivan. Okay. And  
11 how did you know those were Torch devices?

12 MR. HORROM: The -- the -- I guess the  
13 police agent that I worked with said that that's  
14 where they come from, the company that owned them.

15 MS. COSSETTE: And who was the police  
16 officer or the highway patrol person who gave you  
17 those?

18 MR. HORROM: I do not recall their names.

19 MS. COSSETTE: And do you --

20 MR. HORROM: It was several years ago.

21 MS. COSSETTE: Apologies. And do you  
22 know approximately when you might have looked at  
23 those machines?

24 MR. HORROM: The St. Clair games were  
25 February of '21, Branson games were November of '19,

1 and the West Sullivan were October of '20.

2 MS. COSSETTE: And did you all produce  
3 device examination reports for those machines?

4 MR. HORROM: We did.

5 MS. COSSETTE: Okay. And can you tell me  
6 for all the machines seized from all these three  
7 locations, Branson, St. Clair, and West Sullivan, did  
8 you find that they all operated similarly or the same  
9 way?

10 MR. HORROM: Yes.

11 MS. COSSETTE: And can you tell me a  
12 little bit about your conclusions about those  
13 machines?

14 MR. HORROM: I did not have any  
15 conclusions. I just did observations how they  
16 worked, description of the games, what they looked  
17 like.

18 MS. COSSETTE: So how did they work?

19 MR. HORROM: You inserted money. Could  
20 press a button on the button panel. There would be  
21 simulated reels on the video screen. If it had a  
22 winning combination, it would award you credits. You  
23 could then cash those out. There was a button on the  
24 screen that let you prereveal what that spin was  
25 going to be, but only that spin.

1 That's about all our report had. We  
2 entered the menus to see, you know, options of how  
3 they were set up. That's about it.

4 MS. COSSETTE: So the prereveal button,  
5 tell me a little bit about how you understand that  
6 worked on the machines that you looked at.

7 MR. HORROM: You just pressed the button  
8 and it would show you on the screen what the current  
9 spin outcome would be.

10 MS. COSSETTE: The current spin outcome.  
11 So say a little bit more about what that means.

12 MR. HORROM: So the spin that -- if you  
13 press that button, what that game -- how that game  
14 would have an outcome out of.

15 MS. COSSETTE: Okay.

16 MR. HORROM: Whether a win or a loss.

17 MS. COSSETTE: So if I'm going to play  
18 the game and I put a dollar in, I hit the prereveal  
19 button and it says I win two dollars, I play, I'm  
20 going to win those two dollars?

21 MR. HORROM: Correct.

22 MS. COSSETTE: Okay. And from your  
23 observation or understanding, were the prereveals  
24 correct? If you put two -- if it said you were going  
25 to win two dollars, you won two dollars?



1 MR. HORROM: All the games that I  
2 observed were all at zero.

3 MS. COSSETTE: All at zero. What was all  
4 at zero?

5 MR. HORROM: The prereveal showed the  
6 outcome would be zero credits or dollars, whatever  
7 the currency was in.

8 MS. COSSETTE: So how many spins did  
9 you -- or how many game -- I guess sequential games  
10 did you play?

11 MR. HORROM: Handful, 10, 20 games.

12 MS. COSSETTE: And what software was on  
13 the Torch devices that you looked at or the machines?

14 MR. HORROM: I couldn't tell you the  
15 exact software that was on it.

16 MS. COSSETTE: Okay. And did you  
17 understand how the outcomes were ordered on the Torch  
18 device machines that you looked at?

19 MR. HORROM: There was a help screen that  
20 explained that, yes.

21 MS. COSSETTE: And what did it say?

22 MR. HORROM: It said that when the game  
23 was loaded up, there was a finite number of outcomes  
24 and the player would know what the next outcome would  
25 be.

1 MS. COSSETTE: And is your understanding  
2 or do you agree that the outcomes were in a  
3 particular order?

4 MR. HORROM: I don't know that.

5 MS. COSSETTE: Do you -- did you look to  
6 see if you could tell or go into the machine to see  
7 if you could understand how many outcomes there were?

8 MR. HORROM: I did not see any of that in  
9 there, no.

10 MS. COSSETTE: So when you looked at  
11 these machines, did you have any opinion or  
12 understanding of whether or not these games were  
13 unlawful or are unlawful?

14 MR. HORROM: I don't have the ability to  
15 tell that.

16 MS. COSSETTE: So when you do device  
17 examination, what is your -- let's go way back to the  
18 beginning of generally what you do with a device  
19 examination. So you receive some sort of machine,  
20 and I assume you do device examinations on all types  
21 of gaming machines. Correct?

22 MR. HORROM: Correct.

23 MS. COSSETTE: So what do you do when you  
24 receive a device?

25 MR. HORROM: I take some pictures. I

1 play it a few times. And then if it -- the internals  
2 are accessible, I would open it up, check the option  
3 screens, see how it was set up. If the trooper or  
4 agent I was working with wanted to know how much  
5 money had ran through the game, there was meter  
6 screens in there that I would give them those  
7 monetary values. Basically just observe how the game  
8 played.

9 MS. COSSETTE: So you observe how the  
10 game plays. And how you do write your report?

11 MR. HORROM: It's basically just a  
12 memo-type report with pictures in it.

13 MS. COSSETTE: Do you consult with other  
14 folks at the Gaming Commission to help write your  
15 report?

16 MR. HORROM: I would write a draft and  
17 then they would review it.

18 MS. COSSETTE: And you circulate it?

19 MR. HORROM: Yes.

20 MS. COSSETTE: And are you ever asked to  
21 opine on the lawfulness of games in your reports?

22 MR. HORROM: No. I only put in my report  
23 what I observe.

24 MS. COSSETTE: And what is the purpose of  
25 the reports? How are they used?

1 MR. HORROM: I am not sure.

2 MS. COSSETTE: Who do you give them to  
3 you when you are -- when you're done? When you've  
4 produced a final report, where do they go?

5 MR. HORROM: Typically to my superiors  
6 and the trooper that is working the case.

7 MS. COSSETTE: And do you know what  
8 happens to them then?

9 MR. HORROM: No.

10 MS. COSSETTE: Mr. McGrail, do you know  
11 what happens to the device reports then?

12 MR. MCGRAIL: I can speculate, but that  
13 would be it. So, I mean, once they provide them to  
14 the troopers, then it's up to the troopers what they  
15 utilize that information for.

16 MS. COSSETTE: Okay. So when you do a  
17 device -- a device inspection report or an  
18 examination, excuse me, you're doing it for a device  
19 that you've received from law enforcement?

20 MR. HORROM: Correct.

21 MS. COSSETTE: Okay. Is there ever a  
22 situation in which you've received a device not from  
23 a law enforcement officer?

24 MR. HORROM: No.

25 MS. COSSETTE: And your understanding is

1 usually you're doing, or always doing these  
2 examinations at the behest of law enforcement for  
3 some sort of criminal prosecution?

4 MR. HORROM: As far as I know, yes.

5 MS. COSSETTE: Okay. So you said that  
6 you have done device examinations of Torch devices in  
7 Branson, St. Clair, and West Sullivan. Did you ever  
8 do a device examination of a Torch device that was  
9 provided to you by the Brookfield Police Department?

10 MR. HORROM: I did not.

11 MS. COSSETTE: Mr. Hanavan, did you do a  
12 device examination for a Torch device from the  
13 Brookfield Police Department?

14 MR. HANAVAN: Yes.

15 MS. COSSETTE: Okay. Then I'm going to  
16 talk to you for a little bit then.

17 Does that -- does this -- is this okay?  
18 Let's go off the record for a minute.

19 (Off the record.)

20 MS. COSSETTE: Let's go back on the  
21 record.

22 Okay. So right before we went off the  
23 record we were talking a little bit about a Torch  
24 device, Mr. Hanavan, that you said that you examined  
25 that you received from the Brookfield Police

1 Department?

2 MR. HANAVAN: Yes.

3 MS. COSSETTE: Okay. I'm going to mark  
4 as Exhibit MGC-2 a probable cause statement that  
5 discusses that case.

6 (Exhibit MGC-2 was marked for  
7 identification.)

8 MS. COSSETTE: Have you seen that  
9 probable -- have you all -- have you seen that  
10 probable cause statement before?

11 MR. HANAVAN: No. This is the first time  
12 I'm seeing it.

13 MS. COSSETTE: When you receive a machine  
14 from law enforcement, do they usually tell you what  
15 the case is going to be about?

16 MR. HANAVAN: We have never received a  
17 machine. We will be asked to go to a location to  
18 evaluate them. In this case it was the police  
19 department in Brookfield where we evaluated the  
20 machine.

21 MS. COSSETTE: That's a good  
22 clarification. So you get a phone call from law  
23 enforcement. They say, We've seized a machine, we  
24 have a machine, can you come here and look at it?

25 MR. HANAVAN: Yes.

1 MS. COSSETTE: And so when you go to talk  
2 to, in this case, the Brookfield Police Department,  
3 do they tell you anything about why they seized it,  
4 how they seized it, or you're just there to look at  
5 the machines?

6 MR. HANAVAN: Just look at the machine.

7 MS. COSSETTE: Okay. So when you went to  
8 look at the machine or machines in Brookfield, how  
9 many machines did you look at, do you remember?

10 MR. HANAVAN: There were at least ten  
11 machines that were of this type that we looked at.

12 MS. COSSETTE: And this type you mean?

13 MR. HANAVAN: The Torch machines.

14 MS. COSSETTE: And how could you tell  
15 they were Torch machines?

16 MR. HANAVAN: Well, in this case the  
17 department had indicated that Torch was the  
18 distributor.

19 MS. COSSETTE: The Brookfield Police  
20 Department --

21 MR. HANAVAN: Yes.

22 MS. COSSETTE: -- indicated that?

23 MR. HANAVAN: Yes.

24 MS. COSSETTE: Okay. And they didn't  
25 tell -- did they tell you anything else?

1 MR. HANAVAN: No.

2 MS. COSSETTE: Okay. And what is your  
3 understanding about how, after looking at these  
4 machines, how they work?

5 MR. HANAVAN: These -- just put money in  
6 them. You can select your wager. You can pick a  
7 denomination. Place your wager. Spin some reels in  
8 an entertaining fashion and you get an outcome,  
9 winner or loser. You can cash out, print a ticket.

10 MS. COSSETTE: Okay. So what do you mean  
11 by entertaining fashion?

12 MR. HANAVAN: It's a -- just there's  
13 symbols and things of that nature that are used to, I  
14 guess, entice the player.

15 MS. COSSETTE: And when the player plays  
16 and there's the entertaining, as you said,  
17 entertaining fashion, does the player have any impact  
18 on the outcome of the game?

19 MR. HANAVAN: No.

20 MS. COSSETTE: Why?

21 MR. HANAVAN: The outcomes are determined  
22 ahead of time by the finite list that's described in  
23 the help screens.

24 MS. COSSETTE: Okay. And the finite  
25 list, do you have an understanding of how many



1 outcomes there might be on that finite list?

2 MR. HANAVAN: Yes. But from a  
3 third-party report that I can't validate.

4 MS. COSSETTE: Okay. Did you read that  
5 report before or after you looked at the machines?

6 MR. HANAVAN: Oh, I can't say for sure on  
7 this, yeah.

8 MS. COSSETTE: Okay. Do you have an  
9 understanding of or remember who completed that  
10 report?

11 MR. HANAVAN: It was Mr. Foley. He's  
12 a -- I couldn't tell you his first name. He's a,  
13 like a consultant on slot machine related things.

14 MS. COSSETTE: Okay. Could it be Nick  
15 Farley?

16 MR. HANAVAN: Oh, Farley, yes.

17 MS. COSSETTE: Okay.

18 MR. HANAVAN: Nick Farley, yes. Thinking  
19 of Travis Foley. Yeah, sorry.

20 MS. COSSETTE: That's okay. And you've  
21 read his report on how the machines work?

22 MR. HANAVAN: Yes.

23 MS. COSSETTE: Okay. And from your  
24 examination of the game though, you -- did you have  
25 an understanding of the ordering of the outcomes?

1 MR. HANAVAN: I understand that there is  
2 an order of the -- yeah. They're in a list format.

3 MS. COSSETTE: And if you get through,  
4 say -- let's use easy math. There's a -- or easy  
5 numbers. There's a hundred outcomes. You start  
6 at 1, you get to 100. Do you have an understanding  
7 of what happens when you get to the last outcome?

8 MR. HANAVAN: You start over.

9 MS. COSSETTE: You start over at?

10 MR. HANAVAN: One.

11 MS. COSSETTE: One.

12 MR. HANAVAN: Yes.

13 MS. COSSETTE: And they just keep  
14 circling and circling?

15 MR. HANAVAN: Yes.

16 MS. COSSETTE: So I think we have  
17 attorneys from the Missouri Gaming Association and  
18 they had an expert, Peter Nikiper, who said that the  
19 outcomes are always an N plus 1. Is that sort of  
20 your understanding of how the outcomes operate?

21 MR. HANAVAN: I'm not sure.

22 MS. COSSETTE: Okay. That's fine. Okay.  
23 And did you form any understanding of the lawfulness  
24 of the games that -- or the machines that you looked  
25 at?

1 MR. HANAVAN: No.

2 MS. RICHENBERGER: Counsel, I'd just  
3 indicate that that's asking for a legal conclusion  
4 and I would object.

5 MS. COSSETTE: Okay. You can answer.

6 MR. HANAVAN: No.

7 MS. COSSETTE: Okay. And so when you do  
8 reports, where do your reports go?

9 MR. HANAVAN: Once -- when I complete a  
10 report, it goes to our -- our senior staff, our -- my  
11 supervisor and the person above them to review. And  
12 then once I finalize the report, I send it to the  
13 police department, the requesting police department.

14 MS. COSSETTE: Okay. And are you ever  
15 called to testify about your reports?

16 MR. HANAVAN: Yes.

17 MS. COSSETTE: Did you testify about your  
18 report in the lawsuit that's listed on the probable  
19 cause statement?

20 MR. HANAVAN: Yes.

21 MS. COSSETTE: And what did you testify  
22 about?

23 MR. HANAVAN: Just the contents of my  
24 report.

25 MS. COSSETTE: Which is how the games

1 operate?

2 MR. HANAVAN: Yes.

3 MS. COSSETTE: Okay. And can you give me  
4 just sort of a high-level summary of what that  
5 testimony looked like or was like?

6 MR. HANAVAN: Just general questions  
7 about the contents of the report and my understanding  
8 of the operation of the game, which, you know, is  
9 limited -- our examinations are limited to just an  
10 outside-in perspective, you know, as a player would  
11 see the game and then the privileged menus that we do  
12 access, if we can access. But the questioning was  
13 just in line with the contents of the report.

14 MS. COSSETTE: So you just said that you  
15 look at it from how a player plays?

16 MR. HANAVAN: Correct.

17 MS. COSSETTE: Why is that how you  
18 examine the games?

19 MR. HANAVAN: It's simple. It's the  
20 easiest way to look at the functionality of the  
21 device. You can -- when we play slot machines in a  
22 casino, it's the same type of process. You're  
23 looking at how the games play, how they operate.

24 MS. COSSETTE: So I'm going to ask you  
25 this question; you may not be the appropriate person

1 to answer it, but part of what this case is about,  
2 part of the debate here is from what perspective do  
3 we understand how the games operate. In other words,  
4 is chance from the player's perspective or from how  
5 the machine operates? Do you have an answer for  
6 that, or should I ask somebody else?

7 MS. RICHENBERGER: Counsel, I mean, are  
8 you ask -- I don't -- I'm not sure -- if he has that  
9 information or that knowledge, I'm happy for him to  
10 testify to. It sounds to me like it's requesting a  
11 legal conclusion of which --

12 MS. COSSETTE: Well, I think what I'm  
13 trying to understand is what is the Gaming  
14 Commission's perspective on how we should look at  
15 games. Do we look at them from a player's  
16 perspective, because we heard testimony right now  
17 that you do examinations from a player's perspective.  
18 But overall, when the Gaming Commission thinks about  
19 whether -- you know, how a game works, what a game  
20 does, is it from a player's perspective or is it from  
21 the functionality of the internal software of the  
22 game.

23 MS. RICHENBERGER: To the extent that  
24 Mr. Hanavan actually knows that answer, I'm happy for  
25 him to answer. But it sounds to me like that is

1 something he wouldn't have knowledge about. But  
2 again, it sounds like a speculation request.

3 MS. COSSETTE: If you know.

4 MR. HANAVAN: I don't think I can answer  
5 that question. I mean, chance is subjective.

6 MS. COSSETTE: Okay. I may also just  
7 pose the same question to you, Mr. McGrail --

8 MR. MCGRAIL: Yeah.

9 MS. COSSETTE: -- since you're also here  
10 and you may have a little bit more of an  
11 understanding of the overall position of the Gaming  
12 Commission.

13 MR. MCGRAIL: I do, but when we get down  
14 to the detail as far as devices and how they operate  
15 and function, again, that's not my specialty; it's  
16 more handling the operation of the agency. And we  
17 rely on the EGD specialists are our specialists to  
18 make those determinations as far as electronic gaming  
19 devices.

20 MS. COSSETTE: Okay. So does the Gaming  
21 Commission, the Commission, the actual commissioners,  
22 do you ever put -- is there ever a game put in front  
23 of them and there's a vote taken on whether they  
24 believe the game is lawful or not?

25 MR. MCGRAIL: I'd have to answer that as

1 a no. Yeah, no.

2 MS. COSSETTE: Okay. So -- good. Okay.  
3 That's going to get me to where I need to be with  
4 this next exhibit. So this is going to be MGC-3, and  
5 I think this is part of the reason why we are here  
6 today.

7 (Exhibit MGC-3 was marked for  
8 identification.)

9 MS. COSSETTE: This is a letter from Ed  
10 Grewach, who I believe is no longer at the Gaming  
11 Commission -- because I think you have his spot now.

12 MS. RICHENBERGER: That is correct.

13 MS. COSSETTE: To a VFW post. And so  
14 remind me, who is the person that I should talk to  
15 about this?

16 MS. RICHENBERGER: Deputy Director  
17 McGrail.

18 MS. COSSETTE: Okay. All right,  
19 Mr. McGrail. Let me just get to my document. Have  
20 you seen this letter before?

21 MR. MCGRAIL: I have.

22 MS. COSSETTE: Okay. And can you tell me  
23 a little bit about how this letter came about, if you  
24 know.

25 MR. MCGRAIL: Understanding is that

1 Mr. Howard had sent an email to Ed Grewach asking if  
2 certain machines that he had seen in other locations,  
3 would his VFW post be able to place these machines in  
4 their VFW post and be able to utilize those or have  
5 them operating legally within there. So this is the  
6 outcome of -- from Mr. Grewach based on the  
7 information from a report prepared by Todd Nelson and  
8 Jim Horrom. And then he finalized all the additional  
9 information as far as referencing case law in other  
10 jurisdictions.

11 MS. COSSETTE: I think we'll probably  
12 look at that report in a little while and talk to  
13 Mr. Horrom about it, but I wanted to spend a little  
14 time going through this letter. Was this letter ever  
15 presented to the commissioners? I guess at the time  
16 the commissioners were listed here -- are listed on  
17 the side here of the letter. Was this letter ever  
18 presented to the commissioners?

19 MR. MCGRAIL: I do not believe so.

20 MS. COSSETTE: And I think we talked a  
21 little bit earlier. The commissioners generally are  
22 not taking votes on positions on gaming devices?

23 MR. MCGRAIL: No.

24 MS. COSSETTE: So what does the  
25 Commission -- I mean, tell me a little bit about what



1 the Commission does.

2 MR. MCGRAIL: Okay. So we regulate legal  
3 gambling in the state of Missouri. That applies to  
4 the casinos, riverboats that were established, as  
5 well as charitable games being bingo, and then added  
6 on in 2016 fantasy sports. So those are the three  
7 primary areas that we regulate as far as  
8 establishing by, partly by statute that's already out  
9 there in 313; rules, regulations that are established  
10 by us; and then if you want to say a mix, minimum  
11 internal controls by the casinos as far as how  
12 they're going to comply with the rules and  
13 regulations.

14 MS. COSSETTE: And when -- what do the  
15 commissioners do? What's the Commission's role in  
16 terms of when they have a meeting? What are they  
17 usually doing at the meetings?

18 MR. MCGRAIL: So I'll apply them similar  
19 to in a court proceeding as far as appeals court.  
20 They hear cases presented before them, cases relating  
21 to licensing, either new companies coming forward,  
22 being either what we call Class A which is the parent  
23 companies; Class B being the casinos, which right now  
24 they're maxed out on those; suppliers; as well as  
25 what we have classified as key business entities, key

1 persons and licensees. So they'll many times be  
2 presented for either new licensees or renewal of  
3 licenses.

4 They also are presented before them as  
5 far as any disciplinary action, most of the time  
6 impacting either the Class A, being the parent  
7 company, the Class B, the casino, or suppliers.  
8 That's the majority of the brunt of their  
9 responsibility.

10 They also do the preliminary and final  
11 approval of any rules and regulations that are  
12 revised or added at a later date.

13 MS. COSSETTE: And you said they're like  
14 an appeals court. So what sort of enforcement  
15 authority does the Gaming Commission have?

16 MR. MCGRAIL: It's listed as far as in  
17 the statute in the 313, mostly in 313.004, but then  
18 from 313.800 to 313.850.

19 MS. COSSETTE: Has the Gaming Commission  
20 or have the commissioners ever heard any sort of  
21 enforcement action against Torch?

22 MR. MCGRAIL: No. Because we don't  
23 regulate -- they don't fall under our purview.

24 MS. COSSETTE: So you would only -- okay.  
25 That makes sense. So looking at this letter a little

1 bit, I'm interested in some language in the third  
2 paragraph down.

3 MR. MCGRAIL: Okay.

4 MS. COSSETTE: Where it says here, the  
5 second -- the second line, Playing phases of gambling  
6 activities.

7 What does that phrase mean?

8 MR. MCGRAIL: I don't have the answer for  
9 that, I'm sorry.

10 MS. COSSETTE: Okay. So that's not a  
11 phrase that is commonly used?

12 MR. MCGRAIL: No. But it sounds similar  
13 to what possibly would be in one of the statutes.

14 MS. COSSETTE: Okay. So it might be in a  
15 statute, but you're not sure?

16 MR. MCGRAIL: I'm not positive.

17 MS. COSSETTE: Okay. And Mr. Grewach  
18 came to his, if you know -- who -- how did he come to  
19 his conclusion? Who did he talk to? I don't want to  
20 hear anything that's privileged because he's, you  
21 know, a lawyer, but how do you think he came to his  
22 conclusions, if you know?

23 MR. MCGRAIL: Again be speculation, but I  
24 would think his 11, 12 years experience as a general  
25 counsel for the Missouri Gaming Commission and seeing

1 many times similar type questions that would be  
2 brought before the Missouri Gaming Commission.  
3 There's always been the mind set that we regulate all  
4 gambling. And again, we regulate the legal gambling  
5 in the state of Missouri. So I think based on that  
6 is where he did most of his decision. I don't know  
7 who he talked to and -- I'll tell you it wasn't me.

8 MS. COSSETTE: Is this -- is the position  
9 in this letter that the devices that were examined  
10 that Mr. Grewach then looked at the examination, does  
11 this letter still represent the position of the  
12 Gaming Commission?

13 MR. MCGRAIL: Yes.

14 MS. COSSETTE: And have there been any  
15 letters like this since updating or changing or  
16 maintaining this position?

17 MR. MCGRAIL: None that I know of.

18 MS. COSSETTE: Do you know -- well, you  
19 know what, let's look at the device examination  
20 report here. Let me just find it, because I think --  
21 okay. So we are going to mark the next exhibit as  
22 MGC-4. And I know we've previously marked some of  
23 these, but just to keep it straight that this is a  
24 non-party, I'd like to -- we're remarking some of  
25 these.

1 (Exhibit MGC-4 was marked for  
2 identification.)

3 MS. COSSETTE: Okay. Mr. McGrail, so  
4 MGC-4 --

5 MR. MCGRAIL: Yes.

6 MS. COSSETTE: -- is the device  
7 examination report that underlies this July 3rd  
8 letter. Correct?

9 MR. MCGRAIL: That's correct.

10 MS. COSSETTE: Okay. And, Mr. Horrom, I  
11 believe you are the person to talk to about the  
12 substance of this report, correct, in MGC-4?

13 MR. HORROM: Correct.

14 MS. COSSETTE: Okay. So I'm going to  
15 give you a break and talk about the substance. We'll  
16 take a minute, let our court reporter catch up here.

17 Okay. So, Mr. Horrom, you were at least  
18 one of the two people who completed this report.

19 MR. HORROM: Correct.

20 MS. COSSETTE: You examined the devices?

21 MR. HORROM: We examined one device that  
22 a private owner had, correct.

23 MS. COSSETTE: Yeah. That's -- I'm sort  
24 of a little confused about this report as a general  
25 matter. So it says, Location of examination.

1 So what does that explain to us?

2 MR. HORROM: Play-Mor Coin-Op is owned by  
3 Jim Turntine I believe his name is. He had contacted  
4 Todd Nelson and requested -- actually it was the VFW  
5 hall commander that contacted Todd to meet us at  
6 Mr. Turntine -- Turntine's place of business, which  
7 is Play-Mor Coin-Op, and look at a game that he  
8 wanted to have in his VFW hall.

9 MS. COSSETTE: Okay. So this all makes a  
10 lot more sense now than just reading these two  
11 exhibits, MGC-3 and MGC-4 sort of without context.

12 So the VFW post that the letter is  
13 written to in MGC-3 did not have a machine?

14 MR. HORROM: Correct.

15 MS. COSSETTE: And the machine they  
16 wanted is -- was at Play-Mor -- P-l-a-y, dash, M-o-r  
17 Coin-Op. That's where you went to look at the  
18 machine?

19 MR. HORROM: Correct.

20 MS. COSSETTE: So in the observation of  
21 device in the field it says here though that you  
22 visited Midwest Petroleum.

23 MR. HORROM: Correct.

24 MS. COSSETTE: Is Play-Mor Coin-Op just  
25 another name for Midwest Petroleum?

1 MR. HORROM: So what happened that day is  
2 Mr. Turntine, Turntine, however you pronounce it,  
3 said that some of these games were at these gas  
4 stations. So we went and looked at them at the gas  
5 stations.

6 MS. COSSETTE: Okay. So you didn't  
7 actually examine the device at the location of  
8 examination?

9 MR. HORROM: Correct. Correct. We just  
10 did an observation of the game, the 10 or 12 games  
11 that were at those two gas stations in Cuba and West  
12 Sullivan. And then we went back to Play-Mor to do  
13 our report on the game that Mr. Turntine had.

14 MS. COSSETTE: Okay. So there was a --  
15 I'm just trying to understand what's going on here,  
16 so I apologize. So there was a machine at the  
17 location of examination?

18 MR. HORROM: Correct.

19 MS. COSSETTE: Okay. So at Play-Mor  
20 Coin-Op. You went to the gas stations to look at  
21 other machines. Yes?

22 MR. HORROM: Correct.

23 MS. COSSETTE: And you went there why?

24 MR. HORROM: To see if they were similar  
25 games, similar manufacturer, similar, you know, setup

1 as the one that we were going to be examining at  
2 Play-Mor.

3 MS. COSSETTE: And why did you -- why did  
4 you want to know that?

5 MR. HORROM: Mr. Turntine asked us to go  
6 look at them.

7 MS. COSSETTE: And the machines located  
8 at Midwest Petroleum at 513 North Service Road, West  
9 Sullivan, and Midwest Petroleum diesel island at 5922  
10 MO-19 in Cuba, were those owned by Mr. Turntine?

11 MR. HORROM: No.

12 MS. COSSETTE: Do you know who --

13 MR. HORROM: We --

14 MS. COSSETTE: -- or which --

15 MR. HORROM: At the time we did not.

16 MS. COSSETTE: At the -- do you know now?

17 MR. HORROM: No.

18 MS. COSSETTE: Okay. So it says here  
19 that -- well, we talked earlier, one of us talked  
20 earlier, one of you, apologies, that there was a  
21 device examination of a Torch device in West Sullivan  
22 in October of 2020.

23 MR. HORROM: Correct. One of those was  
24 that gas station, but they were different games at  
25 the time, at the time that I observed -- or that I



1 did the investigation on the games that were actually  
2 seized.

3 MS. COSSETTE: In other words, the  
4 software was different?

5 MR. HORROM: The games themselves were  
6 completely different, different cabinets.

7 MS. COSSETTE: Different cabinets,  
8 different software?

9 MR. HORROM: I could not tell you. Just  
10 observing the games in the gas station, we wouldn't  
11 know.

12 MS. COSSETTE: But in 2019, did you have  
13 an understanding of -- you had no understanding of  
14 whether these were Torch devices?

15 MR. HORROM: No, we did not.

16 MS. COSSETTE: But you went back to the  
17 same gas station in October of 2020?

18 MR. HORROM: Correct.

19 MS. COSSETTE: At the behest of whom?

20 MR. HORROM: The highway patrol.

21 MS. COSSETTE: Okay. And when you  
22 observed the games at these two Midwest Petroleum  
23 locations, you observed how they work -- well, okay.  
24 Need to back up a little bit. So you went to the gas  
25 stations to look at the games?

1 MR. HORROM: Correct.

2 MS. COSSETTE: Did you play them at the  
3 gas stations?

4 MR. HORROM: We did not.

5 MS. COSSETTE: Did you watch other people  
6 play them?

7 MR. HORROM: Yes.

8 MS. COSSETTE: Okay. Your observations  
9 in this report that we've marked as MGC-4 are based  
10 on which machines?

11 MR. HORROM: Just one machine that was at  
12 Play-Mor Coin-Op.

13 MS. COSSETTE: Okay. So when you -- when  
14 you write here, The Sullivan, three of them; in Cuba,  
15 seven; petroleum locations had a total of eight  
16 devices in operation and two devices powered off, the  
17 eight devices in operations contained the following  
18 elements, how did you know that?

19 MR. HORROM: We looked at the front of  
20 them.

21 MS. COSSETTE: Okay. So I guess what's  
22 confusing to me here is that you were looking at the  
23 machine at Play-Mor Coin-Op, but you were talking  
24 about in the observation the devices at the gas  
25 station. Do you see why I'm confused?

1 MR. HORROM: If you look on page 2 of  
2 this document, the observation of privately-owned  
3 device, that's where we started our report on those  
4 games.

5 MS. COSSETTE: Okay. And so --

6 MR. HORROM: The first part was just  
7 taking pictures of the game at the gas station and  
8 only observing what we could see from the outside of  
9 those games.

10 MS. COSSETTE: Okay. Okay. So you  
11 really have sort of a mini-device report and a  
12 full-device report --

13 MR. HORROM: Correct.

14 MS. COSSETTE: -- in this -- okay.

15 MR. HORROM: As it states, Observation of  
16 device in the field, which were the ones at the gas  
17 station. And then the privately-owned device on  
18 page 2.

19 MS. COSSETTE: And you might have  
20 answered this already, so I apologize, but we've  
21 already had a deposition today, a lot going on and --

22 MR. HORROM: Uh-huh.

23 MS. COSSETTE: -- frankly I don't sleep  
24 that well because my kids don't sleep.

25 Why did you feel like you needed to

1 include the observation of the device in the field in  
2 this report?

3 MR. HORROM: I do not know. I did not  
4 write the majority of this report. I was just part  
5 of the observation. Todd Nelson wrote the majority  
6 of this report.

7 MS. COSSETTE: Okay. Did you review the  
8 report?

9 MR. HORROM: Yes.

10 MS. COSSETTE: Okay. So what part of the  
11 report did you contribute to?

12 MR. HORROM: Starting page 2, the  
13 majority of the privately-owned device, I was the one  
14 that reviewed the internal menus of the game, that  
15 kind of thing.

16 MS. COSSETTE: Okay.

17 MR. HORROM: At Play-Mor.

18 MS. COSSETTE: So Mr. Nelson was really  
19 more in charge of the observation of device in the  
20 field?

21 MR. HORROM: Correct.

22 MS. COSSETTE: You were more in charge of  
23 the observation of privately-owned device?

24 MR. HORROM: Correct.

25 MS. COSSETTE: Great. So you analyzed it

1 looks like one device with a machine serial number  
2 that's very, very long and we're not going to read  
3 that.

4 What software was -- if you remember or  
5 you can look through this, what software was on this  
6 device?

7 MR. HORROM: Oh, I think we have a  
8 picture of it. I do not have a picture of it in  
9 here. I do not know the exact version number of the  
10 software that was in there.

11 MS. COSSETTE: Do you have an  
12 understanding of the manufacturer of the software?

13 MR. HORROM: It was a Banilla game.

14 MS. COSSETTE: Okay. And you've seen  
15 Banilla games before?

16 MR. HORROM: Correct.

17 MS. COSSETTE: They're usually called  
18 NCG?

19 MR. HORROM: Usually, yes.

20 MS. COSSETTE: And what does NCG stand  
21 for?

22 MR. HORROM: I believe it's No Chance  
23 Game.

24 MS. COSSETTE: That's my understanding as  
25 well. So, and usually with the No Chance Games

1 there's a suite of games. Is that your  
2 understanding?

3 MR. HORROM: Correct.

4 MS. COSSETTE: And sometimes they change?

5 MR. HORROM: Yeah. It's usually like six  
6 games.

7 MS. COSSETTE: And you can go in and play  
8 at different play levels?

9 MR. HORROM: Correct.

10 MS. COSSETTE: And you can hit a  
11 prereveal button?

12 MR. HORROM: Yes.

13 MS. COSSETTE: And that does what?

14 MR. HORROM: It allows you to see the  
15 next outcome of the game.

16 MS. COSSETTE: And have you -- and is  
17 that just a -- is that a common feature of the  
18 Banilla games?

19 MR. HORROM: As far as I know, yeah.

20 MS. COSSETTE: Okay. And I see here on  
21 page 5 you observed that the video game machine has a  
22 configurable prereveal feature.

23 MR. HORROM: Yes.

24 MS. COSSETTE: Was the prereveal feature  
25 configured on this particular device if you remember?

1 MR. HORROM: Since we had access to that  
2 menu, it was just in its default, which I cannot  
3 remember what the default was, but you could change  
4 it from the one game only or all games.

5 MS. COSSETTE: Okay. And who did you  
6 forward this -- so we heard testimony earlier, you  
7 might have said it even, that usually these device  
8 examinations are done at the behest of law  
9 enforcement.

10 MR. HORROM: Correct.

11 MS. COSSETTE: Who's Jim Turntine?

12 MR. HORROM: As far as I know, he's the  
13 owner of Play-Mor -- what is -- Play-Mor Coin-Op,  
14 which is an amusement device distributor.

15 MS. COSSETTE: He's not a law enforcement  
16 officer?

17 MR. HORROM: Correct.

18 MS. COSSETTE: And neither is Mr. Howard  
19 from the VFW post?

20 MR. HORROM: Correct.

21 MS. COSSETTE: So is it something that  
22 you would do for non-law enforcement, or is this  
23 unusual?

24 MR. HORROM: I don't know the answer to  
25 that.

1 MS. COSSETTE: How many device  
2 examinations have you completed do you think?

3 MR. HORROM: In addition to this one?

4 MS. COSSETTE: Yeah.

5 MR. HORROM: Just the other three that I  
6 mentioned earlier.

7 MS. COSSETTE: Okay. How long have you  
8 been at the Gaming Commission?

9 MR. HORROM: Eleven years.

10 MS. COSSETTE: And you've only done 3  
11 device examinations in 11 years?

12 MR. HORROM: Correct.

13 MS. COSSETTE: So it's not --

14 MR. HORROM: Well, could you expound on  
15 that please?

16 MS. COSSETTE: Sure. Yeah. How many --  
17 device -- all types of devices, how --

18 MR. HORROM: Millions probably.

19 MS. COSSETTE: Yeah. That's --

20 MR. HORROM: That's probably a large  
21 number, but we have several thousand slot machines in  
22 the state of Missouri that I've done --

23 MS. COSSETTE: Yeah. And that's what  
24 I --

25 MR. HORROM: -- investigations on.



1 MS. COSSETTE: That's what I was trying  
2 to get at. Yeah.

3 MR. HORROM: Okay.

4 MS. COSSETTE: And my apologies again.  
5 If I ask a bad question, just tell me, and I will try  
6 really hard to do a better job.

7 But generally device examinations are not  
8 done at the behest of a private entity?

9 MR. HORROM: In the casinos we have  
10 manufacturers that --

11 MS. COSSETTE: Okay.

12 MR. HORROM: Yeah.

13 MS. COSSETTE: They'll call you and have  
14 you come look at their machine for --

15 MR. HORROM: Or --

16 MS. COSSETTE: -- compliance?

17 MR. HORROM: -- they'll have us go out  
18 and see if -- yeah.

19 MS. COSSETTE: Okay.

20 MR. HORROM: In casinos. Correct.

21 MS. COSSETTE: Okay. But for the types  
22 of devices we're looking at, these No Chance Games,  
23 generally you were doing them for law enforcement?

24 MR. HORROM: After this date, correct.

25 MS. COSSETTE: Okay.

1 MR. HORROM: After the date of July 2nd,  
2 correct.

3 MS. COSSETTE: Okay. Okay. I think we  
4 can put that examination report aside.

5 So I have another device examination  
6 report that I'm going to mark as MGC-5.

7 (Exhibit MGC-5 was marked for  
8 identification.)

9 MS. COSSETTE: And I'm going to give it  
10 to you, Mr. Hanavan, because I believe you are the  
11 one who completed it. And I'll give you a minute to  
12 look over it.

13 All right. Mr. Hanavan, do you recognize  
14 MGC-5?

15 MR. HANAVAN: I do.

16 MS. COSSETTE: Were you the only subject  
17 matter expert who contributed to this report?

18 MR. HANAVAN: I wrote the report. Again,  
19 it was a group of us that contributed as far as the,  
20 you know, just editing and making sure that the  
21 contents are, you know, grammatically correct and --

22 MS. COSSETTE: Yeah.

23 MR. HANAVAN: -- things of that nature.

24 But, yes, it's my report.

25 MS. COSSETTE: And what device did you

1 examine?

2 MR. HANAVAN: I examined a -- it was a --  
3 Integrity Vending was the distributor. It was a  
4 Banilla cabinet that was at the Parkville Police  
5 Department.

6 MS. COSSETTE: And the Parkville police  
7 called you because they had one of these machines?

8 MR. HANAVAN: Yes.

9 MS. COSSETTE: And they wanted you to  
10 come look at it. How did this -- how does this game  
11 work or this machine work?

12 MR. HANAVAN: Same as the other. You  
13 place money in the machine, get credits. You select  
14 a game, you select a wager category and then hit  
15 Play. You can also hit the prize reveal button or  
16 prize viewer I think is what it's specifically  
17 called, see the pay out, the numerical value you may  
18 win. And then you can cash out and receive a ticket.

19 MS. COSSETTE: Okay. And how many  
20 device -- I'm going to try to be specific. How many  
21 device examination reports of No Chance Gaming  
22 machines have you completed?

23 MR. HANAVAN: I wrote it down. Let me --  
24 roughly seven.

25 MS. COSSETTE: Okay. And how many of

1 those were Torch, if you know?

2 MR. HANAVAN: I can't say for sure how  
3 many were Torch.

4 MS. COSSETTE: Okay. Okay. I don't -- I  
5 just wanted to know where this came from, so.

6 MR. HANAVAN: Yes.

7 MS. COSSETTE: Good. Okay. I'm going to  
8 ask your counsel.

9 If I have some general questions about  
10 the Gaming Commission, Mr. McGrail's probably my best  
11 bet?

12 MS. RICHENBERGER: Yes.

13 MS. COSSETTE: Okay. Great. All right,  
14 Mr. McGrail, you're back on the hot seat.

15 So sometimes these devices that we're  
16 talking about, these No Chance Game devices, are  
17 called gray machines or they're part of the gray  
18 market. Is that a phrase that the Gaming Commission  
19 has an understanding of?

20 MR. McGRAIL: Understanding of to an  
21 extent of what we've heard the media classify them  
22 as. So, you know, we hear out in the media many  
23 times as far as gray, but if you remember, we used  
24 to talk about gray cigarettes. Well, what did they  
25 mean by gray cigarettes. Well, ones that didn't

1 have a tax stamp on them or had been regulated or  
2 such.

3 So I guess if you ask in terms, we look  
4 at these type of machines that are not regulated.

5 MS. COSSETTE: Okay. Is that -- is "gray  
6 market" or "gray machine" a term that the Gaming  
7 Commission uses?

8 MR. MCGRAIL: We normally don't, no.

9 MS. COSSETTE: Okay. What do you  
10 normally call these machines?

11 MR. MCGRAIL: Well, I mean, like I say,  
12 we only regulate the legal ones. If you'd ask, we'd  
13 say these are ones that are just, that are not legal  
14 in the state of Missouri.

15 MS. COSSETTE: So do you consider not  
16 legal and not regulated to be the same?

17 MR. MCGRAIL: I don't know. I -- yeah,  
18 I -- I'd say no.

19 MS. COSSETTE: No, okay.

20 MR. MCGRAIL: Yeah.

21 MS. COSSETTE: So when you talk about  
22 something that's not regulated --

23 MR. MCGRAIL: Right.

24 MS. COSSETTE: -- what are you talking  
25 about?

1 MR. MCGRAIL: One that falls under the  
2 purview of, like I say, Missouri Gaming Commission,  
3 any other agency in the state that would look at  
4 certain devices or machines.

5 MS. COSSETTE: Okay. And then when  
6 you're talking about something that's not legal,  
7 might be little pedantic here, but --

8 MR. MCGRAIL: Yeah. What would those be?

9 MS. COSSETTE: Yeah. What do you  
10 consider -- what does the Gaming Commission consider  
11 those?

12 MR. MCGRAIL: Base -- any ones that don't  
13 fall under our purview or any other regulated entity.

14 MS. COSSETTE: Well, I guess I'm just  
15 trying to understand the difference between a device  
16 that's not legal and a device that's not regulated.

17 MR. MCGRAIL: So -- yeah. I mean, you  
18 have like in lottery, keno machines, those are out by  
19 the -- by the state lottery. The ones that we  
20 regulate we don't own them, but they're regulated by  
21 us.

22 So I guess if you're asking the terms, if  
23 it's ones that aren't regulated, would we consider  
24 those as gray machines is what you would call them or  
25 what you've asked. That probably still didn't answer

1 your question.

2 MS. COSSETTE: No. I'm trying to think  
3 about a better way to ask my question, because this  
4 might be my fault.

5 So if the Gaming Commission doesn't  
6 regulate the device, you consider that not regulated?

7 MR. MCGRAIL: Correct.

8 MS. COSSETTE: Might it be regulated by  
9 another agency?

10 MR. MCGRAIL: Yes, it can.

11 MS. COSSETTE: Might it not be regulated?

12 MR. MCGRAIL: There are ones that are out  
13 there that are not regulated, correct.

14 MS. COSSETTE: Okay. If a device is not  
15 legal, it means that the Gaming Commission has an  
16 understanding that it -- there's a violation of the  
17 law?

18 MR. MCGRAIL: Like in this instance?

19 MS. COSSETTE: Yes.

20 MR. MCGRAIL: Yes. So, because you asked  
21 earlier, do we still -- do we still stand by this  
22 letter. Correct?

23 MS. COSSETTE: Correct.

24 MR. MCGRAIL: And we do as it applies  
25 to -- because this was a VFW post that had bingo.

1 And for them to operate bingo, there's certain  
2 restrictions in 313.030 and 070 that does not allow  
3 them to have certain other devices or games that are  
4 not -- that fall -- that don't fall under as far as  
5 their bingo license.

6 MS. COSSETTE: Okay. But -- right. So  
7 just trying to -- so if you have a not-regulated  
8 device, that does not mean it's unlawful or not  
9 legal, but if you have a non-legal -- let me start  
10 that again.

11 MR. MCGRAIL: Okay.

12 MS. COSSETTE: Scrap that. If you have a  
13 not-legal dev -- not-regulated device, that does not  
14 mean it's not lawful?

15 MR. MCGRAIL: But I'm not an attorney  
16 that can make that determination, so, but.

17 MS. COSSETTE: Right. But saying it the  
18 opposite way, if it's not legal, then it's definitely  
19 not regulated?

20 MR. MCGRAIL: If it's not legal, then  
21 it's not -- then, yes. If it's not legal, then it's  
22 not regulated.

23 MS. COSSETTE: But the opposite way not  
24 be true. Right? If it's not regulated, that doesn't  
25 per se make it not lawful? Like keno machines. You



1 don't regulate them; somebody --

2 MR. MCGRAIL: Correct.

3 MS. COSSETTE: -- else does?

4 MR. MCGRAIL: Correct.

5 MS. COSSETTE: Okay. So now that we're  
6 talking about things that are legal and not legal, we  
7 in all of our various depositions have been talking  
8 about the word "chance." Does the Gaming Commission  
9 have an understanding of what the word "chance"  
10 means? And I don't need your legal opinion. Just as  
11 a general matter what do you think the word "chance"  
12 means or what does the Gaming Commission think it  
13 means?

14 MR. MCGRAIL: My opinion, it's luck.  
15 It's an outcome of probab -- extended probability,  
16 not based on a skill in most cases.

17 MS. COSSETTE: So does -- do chance and  
18 skill go together? Does the Gaming Commission think  
19 about chance and about skill as sort of two sides of  
20 the same coin?

21 MR. MCGRAIL: No. Because we have  
22 definition in our statute as far as what a game of  
23 chance and what a game of skill is.

24 MS. COSSETTE: Okay.

25 MR. MCGRAIL: So.

1 MS. COSSETTE: I'm sorry, I interrupted  
2 you.

3 MR. MCGRAIL: Yeah. So game of chance  
4 being one that is not -- definitely the outcome is  
5 not determined solely on the individual as far as  
6 their dexterity, knowledge, and such, that chance  
7 predominates the outcome.

8 MS. COSSETTE: Okay. But you could --  
9 could you have a No Chance Game that doesn't require  
10 skill?

11 MR. MCGRAIL: I -- I don't know that.

12 MS. COSSETTE: So we're talking about the  
13 Torch devices here. I'm not going to hide the ball.

14 MR. MCGRAIL: I know, yeah.

15 MS. COSSETTE: The Torch devices you --  
16 there's no skill involved. There's a sequence of  
17 outcomes. They go 1 to 75,000. They start at 1, go  
18 to 75,000, start again. When you hit the prereveal  
19 and say you're going to win a dollar, you hit the  
20 button to play, you're going to win the dollar.  
21 There's no chance involved there. You know you're  
22 going to win the dollar.

23 MR. MCGRAIL: For that particular game or  
24 spin, yes.

25 MS. COSSETTE: Sure. But there's also --

1 there's no skill involved?

2 MR. MCGRAIL: As far as I know, no.

3 MS. COSSETTE: Okay. So you could have a  
4 game that is not skill-based but also does not have  
5 chance?

6 MR. MCGRAIL: I don't know that answer.

7 MS. COSSETTE: Okay. Okay. That's okay.  
8 So we did a deposition of Peter Nikiper who's the  
9 Gaming Association's expert in this case. And he  
10 talked a little bit about in his deposition that the  
11 word "chance" means randomness. Does that make sense  
12 to you as a way to describe chance?

13 MR. MCGRAIL: Yes, it can be.

14 MS. COSSETTE: Okay. It can be?

15 MR. MCGRAIL: Yeah.

16 MS. COSSETTE: Is it -- is chance always  
17 random?

18 MR. MCGRAIL: Random in whose eyes?

19 MS. COSSETTE: Well, you tell me.

20 MR. MCGRAIL: Yeah.

21 MS. COSSETTE: Whose eyes do you all look  
22 at it through?

23 MR. MCGRAIL: That I don't know. I mean,  
24 like I say, we look at the operation of the machines,  
25 but, you know. Is there a randomness to it, yes. Is

1 that the only way. So.

2 MS. COSSETTE: So when Mr. Grewach was  
3 writing his letter and I'm not -- you're not him, so  
4 you may not know this, but how was he looking at the  
5 game, from whose perspective?

6 MR. MCGRAIL: Again, you're asking me  
7 something that I don't know. I don't know how he --  
8 what he was looking at it as far as perspectives.  
9 I'd say he probably looked at it as far as based on  
10 the law and applying, because we got request from the  
11 VFW. So he was looking at it, would this -- any of  
12 these devices be allowed, you know, at a VFW hall  
13 that had a bingo operation.

14 MS. COSSETTE: Okay. Let's take a  
15 five-minute break because we've been going for about  
16 an hour and frankly it's hot in here for me. So I'm  
17 going to make the air a little cooler and we'll come  
18 back in a couple of minutes.

19 (Off the record.)

20 MS. COSSETTE: I think we're ready to go  
21 back on the record. Okay.

22 So as Mr. Hatfield, who isn't here, but  
23 it's become our custom as he would say in this case  
24 to ask if there is anything that you thought of  
25 during the break that you wanted to change, add,

1 amend. I guess for ease of the court reporter, we  
2 can go with Mr. McGrail because you were the last one  
3 answering questions. So is there anything that you'd  
4 like to change, amend, add from what we were talking  
5 about earlier?

6 MR. MCGRAIL: I don't believe so.

7 MS. COSSETTE: Okay. So before we went  
8 on the break we were talking a little bit about sort  
9 of generally how the Gaming Commission works and your  
10 understanding of some terms. But I kind of want to  
11 go think about the Gaming Commission more broadly.  
12 The Gaming Commission is a subagency of the  
13 Department of Public Safety.

14 MR. MCGRAIL: So I'll explain it in a  
15 little more detail.

16 MS. COSSETTE: Yes.

17 MR. MCGRAIL: We are in the -- under the  
18 Department of Public Safety only due to budgetary  
19 purposes. So we have a commission which again we  
20 talked earlier how they kind of oversee and hear --  
21 hear the cases. We have an executive director that  
22 handles the -- and staff that handles the day-in,  
23 day-out operation of the -- of the agency. But we're  
24 only under the Department of Public Safety strictly  
25 for budgetary purposes.

1 MS. COSSETTE: And when you say strictly  
2 budgetary purposes, that means the money that the  
3 legislature appropriates to the Gaming Commission  
4 goes through the Department of Public Safety or  
5 something else?

6 MR. MCGRAIL: It goes under the  
7 Department of Public Safety's appropriation bill,  
8 yes.

9 MS. COSSETTE: Okay. But you have  
10 control over your own funds?

11 MR. MCGRAIL: Correct.

12 MS. COSSETTE: Okay. But you -- is there  
13 any situation where -- scratch that; let me start  
14 again.

15 Does the Gaming Commission ever talk to  
16 folks at the Department of Public Safety?

17 MR. MCGRAIL: We do.

18 MS. COSSETTE: Okay. Do you ever work  
19 with folks at the Department of Public Safety on  
20 various policy initiatives?

21 MR. MCGRAIL: At times if it meets, falls  
22 under the same goal, aspects as far as the Gaming  
23 Commission as well as the rest of the Department of  
24 Public Safety, yes, we do.

25 MS. COSSETTE: Can you give me an

1 example?

2 MR. MCGRAIL: You know, as far as the --  
3 what we have today is what we talk about as far as  
4 operational excellence within the state of Missouri  
5 which is trying to be better stewards of the state  
6 and its operation as far as streamlining efficiency  
7 in government. So there's common goals, common  
8 objectives in that type of aspect that we've all been  
9 tasked to be able to perform and operate.

10 MS. COSSETTE: Have you -- has the Gaming  
11 Commission, anyone at the Gaming Commission ever  
12 spoken to anyone at the Department of Public Safety  
13 about No Chance Games?

14 MR. MCGRAIL: Not necessarily as far as  
15 No Chance Games, but if you -- probably games in  
16 general, yes.

17 MS. COSSETTE: No Chance -- games in  
18 general meaning video games or?

19 MR. MCGRAIL: The games that are in  
20 convenience stores, truck stops, et cetera.

21 MS. COSSETTE: And why would the Game --  
22 did the Gaming Commission approach the Department of  
23 Public Safety or vice versa?

24 MR. MCGRAIL: I believe it was the  
25 Department of Public Safety.

1 MS. COSSETTE: And why would they have  
2 approached the Gaming Commission on these types of  
3 devices?

4 MR. MCGRAIL: Speculating, for the fact  
5 that we have understanding of gaming machines, how  
6 they function, how they operate.

7 MS. COSSETTE: Was it for the purpose of  
8 helping the Department of Public Safety form some  
9 sort of opinion as to how -- as to the lawfulness of  
10 the games?

11 MR. MCGRAIL: No, not as far as an  
12 opinion.

13 MS. COSSETTE: Do you know if the  
14 Department of Public Safety has any sort of opinion  
15 as to the lawfulness of these games?

16 MR. MCGRAIL: No.

17 MS. COSSETTE: Do you -- does the Gaming  
18 Commission ever speak to other subagencies of the  
19 Department of Public Safety?

20 MR. MCGRAIL: We do.

21 MS. COSSETTE: Has the Gaming Commission  
22 ever spoken to other subagencies of the Department of  
23 Public Safety about the games we're talking about  
24 here, meaning these No Chance Games or video games?

25 MR. MCGRAIL: Yes.



1 MS. COSSETTE: Which subagencies has the  
2 Missouri Gaming Commission spoken to?

3 MR. MCGRAIL: Alcohol and Tobacco.

4 MS. COSSETTE: Okay.

5 MR. MCGRAIL: The fire marshals. Fire  
6 Safety.

7 MS. COSSETTE: Okay. So let's talk a  
8 little bit about Alcohol and Tobacco. So I'm going  
9 to mark this next document at MGC-6.

10 (Exhibit MGC-6 was marked for  
11 identification.)

12 MS. COSSETTE: I think everybody else has  
13 already seen this. I've got lots of documents.  
14 Okay.

15 Have you, Mr. Grail, seen this document  
16 before?

17 MR. MCGRAIL: I have.

18 MS. COSSETTE: What is -- what is this  
19 document? What are we looking at?

20 MR. MCGRAIL: It appears when it talks  
21 about an industry circular, that the Division of  
22 Alcohol and Tobacco had sent this out to the industry  
23 that they regulate, they being Alcohol and Tobacco  
24 regulate.

25 MS. COSSETTE: And does the industry that

1 Alcohol and Tobacco regulate ever overlap with the  
2 industry that the Gaming Commission regulates?

3 MR. MCGRAIL: No, not always. No, not --  
4 not -- in most aspects, no, other than there are  
5 times where, again, bingo establishments may have a  
6 liquor license, but then we also license the bingo.

7 MS. COSSETTE: Yeah, that's what I mean.  
8 So there could be an establishment that both Alcohol  
9 and Tobacco and the Gaming Commission have some sort  
10 of jurisdiction over?

11 MR. MCGRAIL: Correct.

12 MS. COSSETTE: They just won't be the  
13 same jurisdiction; it would be different.

14 MR. MCGRAIL: Yes.

15 MS. COSSETTE: Did the Gaming Commission  
16 ever consult with or provide any input into this  
17 circular?

18 MR. MCGRAIL: That I don't know.

19 MS. COSSETTE: Would it be possible that  
20 Alcohol and Tobacco might have asked for some insight  
21 or opinion as to what to put in the circular from the  
22 Gaming Commission?

23 MR. MCGRAIL: It's possible.

24 MS. COSSETTE: You just don't know?

25 MR. MCGRAIL: But I don't know.

1 MS. COSSETTE: If another subagency like  
2 Alcohol and Tobacco is going to put out a circular  
3 like the one we're looking at in MGC-6 that talks  
4 about something that the Gaming Commission might  
5 regulate, would the Gaming Commission try to get on  
6 the same page as Alcohol and Tobacco? In other  
7 words, does the Gaming Commission want to be  
8 consistent with other subagencies of the Department  
9 of Public Safety?

10 MR. MCGRAIL: Only as it applies to the  
11 Gaming Commission as far as what our -- our role is.  
12 If it's -- if it's similar or joint. But a liquor  
13 license is totally different than how we license  
14 bingo.

15 MS. COSSETTE: Well, sure. But -- and  
16 that makes absolute total sense.

17 MR. MCGRAIL: Right.

18 MS. COSSETTE: In this circular Alcohol  
19 and Tobacco seems to be taking a position on gaming  
20 devices.

21 MR. MCGRAIL: They have, yeah, from  
22 what -- what they stated in the circular, yes.

23 MS. COSSETTE: Right. And so would you  
24 expect that Alcohol and Tobacco would come to the  
25 Gaming Commission and give you a heads up?

1 MR. MCGRAIL: Yeah. I would think that  
2 they would, but that doesn't necessarily -- I mean,  
3 we don't -- it wouldn't be subject to our approval.

4 MS. COSSETTE: Okay. Yeah. That's sort  
5 of what I'm asking. But, and what if -- and I'm  
6 going to ask you a little bit of a hypothetical here  
7 so just bear with me. It's not going to be that hard  
8 hopefully. If Alcohol and Tobacco came out with a  
9 position that the Gaming Commission didn't agree  
10 with, what would the Gaming Commission do?

11 MR. MCGRAIL: Again, hypothetical, I --  
12 again, it depends on -- if it's nothing that we have  
13 oversight or control, we'd probably say nothing.

14 MS. COSSETTE: Right. But say all of a  
15 sudden the Alcohol and Tobacco came out with a  
16 position on a certain type of game that you all  
17 believed to be unlawful and they say it's lawful.  
18 What would the Gaming Commission do?

19 MR. MCGRAIL: If it doesn't impact the  
20 casinos we -- or, like I say, the bingo  
21 establishments, again, we would say nothing. If it  
22 was a bingo establishment, hypothetical, we'd say, We  
23 understand what you're saying, but again, we're  
24 applying 313 on the statutes that impact bingo and  
25 its operation.

1 MS. COSSETTE: Okay. That's a great  
2 clarification.

3 MR. MCGRAIL: Yeah.

4 MS. COSSETTE: So convenience stores, the  
5 Gaming Commission does not regulate convenience  
6 stores?

7 MR. MCGRAIL: That's correct.

8 MS. COSSETTE: It has nothing to do with  
9 convenience stores?

10 MR. MCGRAIL: That's correct.

11 MS. COSSETTE: The games we're talking  
12 about here, Torch -- the machines that Torch  
13 operates, they're in convenience stores. Is that  
14 your understanding?

15 MR. MCGRAIL: That's what I understand.

16 MS. COSSETTE: So, and you may not know  
17 the answer to this, but then why are you being asked  
18 to inspect those devices if the Gaming Commission has  
19 no authority over convenience stores?

20 MR. MCGRAIL: Again, at times we've  
21 offered assistance to -- because of the expertise  
22 that we have on similar-type games or how the  
23 gambling games at the casinos operate and function.  
24 And so we offer that assistance to take a look at the  
25 machines to give them exactly how -- how it operates.

1 As they stated earlier, the coin in, the  
2 denomination, the theme of games that are available  
3 on that particular device. And understanding again,  
4 they could get to the admin section and look at the  
5 amount of coin-in, coin-out whereas a normal person  
6 may not understand that.

7 MS. COSSETTE: So Mr. Grewach's letter,  
8 is it unusual then that a letter like this would go  
9 out on devices that you all have nothing to do with  
10 or theoretically have nothing to do with?

11 MR. MCGRAIL: The letter to the VFW?

12 MS. COSSETTE: Yes.

13 MR. MCGRAIL: It is to a certain extent,  
14 but again, this is where we were asked by a -- the  
15 licensee --

16 MS. COSSETTE: Okay.

17 MR. MCGRAIL: -- of the current VFW that  
18 said, Hey, we'd like to put in these machines, would  
19 we be allowed to do so.

20 And based on, again, what the statement  
21 or what the composition of the letter from  
22 Mr. Grewach is, in his opinion he viewed these as  
23 being -- not being able to operate under this because  
24 of our statutes relating to bingo operation.

25 MS. COSSETTE: Can you say more about

1 that, relating to bingo operation? What does that  
2 mean?

3 MR. MCGRAIL: So there -- later on in the  
4 letter he talks about these particular devices or any  
5 other device that's substantially similar to them or  
6 found on your organization's premises, the device  
7 will be deemed illegal and Missouri Gaming Commission  
8 will take this action to discipline your  
9 organizations. And again, their bingo license  
10 pursuant to Section 313.040, 070 as well as one of  
11 our state code regulations, 4530.27. And I do not --  
12 I can't remember exactly -- I'd have to look at the  
13 statutes again.

14 MS. COSSETTE: But when you say subject  
15 to their bingo license, you mean that you -- that the  
16 Gaming Commission would --

17 MR. MCGRAIL: Discipline.

18 MS. COSSETTE: -- discipline them for the  
19 license.

20 It's not making a determination on the  
21 machines themselves under the bingo statutes?

22 MR. MCGRAIL: That's correct.

23 MS. COSSETTE: Okay. And do you have an  
24 understanding of who the manufacture of the devices  
25 are that -- scratch that; I didn't mean to ask

1 manufacturer -- the owner of the device that  
2 Mr. Grewach looked at -- or wrote about in this  
3 letter?

4 MR. MCGRAIL: Again, I believe, because  
5 it said in the second paragraph, that they met with  
6 the vendor July 2nd and the manufacturer by Banilla  
7 Games, Incorporated and distributed one -- or  
8 distributed by Legacy Coin Operated Distributors,  
9 Inc.

10 MS. COSSETTE: Okay.

11 MR. MCGRAIL: So I'm just basing it on  
12 what he states in the letter.

13 MS. COSSETTE: Okay. That makes sense.  
14 And, but I just want to make sure and I'm going to  
15 ask this just mostly for the record to be clear. The  
16 basis of this letter were not Torch devices, the  
17 devices that are the subject of this lawsuit?

18 MR. MCGRAIL: I do not know that. I'm  
19 assuming not.

20 MS. COSSETTE: Okay. Because it says in  
21 the letter that they're distributed by Legacy Coin  
22 Operated Distributors.

23 MR. MCGRAIL: Right.

24 MS. COSSETTE: And you generally  
25 understand that to be a different company than Torch?



1 MR. MCGRAIL: Correct.

2 MS. COSSETTE: Okay. And so we have  
3 no --

4 MR. MCGRAIL: But again, don't know.

5 MS. COSSETTE: Okay. Well, I'm going to  
6 switch people on you here real fast. I want to go  
7 back to MGC-4, please, Mr. Horrom, and ask you a  
8 question to make sure that I'm clear because I may  
9 not have been clear about this.

10 MR. HORROM: Okay.

11 MS. COSSETTE: The device that was  
12 examined, starting on page 2, the privately-owned  
13 device, that was not a Torch device?

14 MR. HORROM: As far as I know, it was  
15 not.

16 MS. COSSETTE: Do you have an  
17 understanding of whether it was -- it's configured  
18 the same way as a Torch device?

19 MR. HORROM: When we did our  
20 investigation on it, it was set up like it would come  
21 from Banilla, so it was in its default state.

22 MS. COSSETTE: Default state, okay. And  
23 the observation of the device in the field, those  
24 are -- do you know which -- what types of devices  
25 those were, who owned them?

1 MR. HORROM: Those were Banilla games  
2 also. I do not know who owned those at that time.

3 MS. COSSETTE: Okay. So you know the  
4 manufacturer --

5 MR. HORROM: Yes.

6 MS. COSSETTE: -- was Banilla?

7 MR. HORROM: Correct.

8 MS. COSSETTE: But you don't know who  
9 owned them. I'm going to stay with you, Mr. Horrom.

10 MR. HORROM: Okay.

11 MS. COSSETTE: I'll just use this MGC-4  
12 to talk about generally the games. Did the games  
13 that you looked at here have random number generator?

14 MR. HORROM: Here as in where?

15 MS. COSSETTE: I'm sorry. The device in  
16 the field or devices because there's ten of them, did  
17 those have random number generators?

18 MR. HORROM: I could not tell you that.

19 MS. COSSETTE: How would you know if a  
20 device had a random number generator?

21 MR. HORROM: You would have to look at  
22 code. And I did not look at any computer code on  
23 these games.

24 MS. COSSETTE: Do you ever look at code  
25 when you're doing these examination?

1 MR. HORROM: On these --

2 MS. COSSETTE: Just a general, like a  
3 device examination report. If you're going to look  
4 at say a slot machine, would you look at the code?

5 MR. HORROM: Absolutely.

6 MS. COSSETTE: So why would you not --

7 MR. HORROM: Well, I take that back. We  
8 wouldn't look at the code, but we have third-party  
9 laboratories that do, that certify them for use in  
10 the state of Missouri in casinos. And we look at  
11 those certification reports that they give us. And  
12 they -- they list -- usually list the -- the random  
13 number generator that the game is using.

14 MS. COSSETTE: Okay. And your  
15 understanding of slot machines, they have random  
16 number generators?

17 MR. HORROM: Typically, yes.

18 MS. COSSETTE: What is a random number  
19 generator?

20 MR. HORROM: It can be a number of  
21 things. Depends on the -- the kind of game.

22 MS. COSSETTE: Okay. Fair point. Slot  
23 machines, what kind -- what does the random number  
24 generator do in a slot machine?

25 MR. HORROM: It uses an algorithm to

1 generate a random outcome on the spin of a slot  
2 machine.

3 MS. COSSETTE: I'll be honest; I don't  
4 know that I've ever played a slot machine. So if I  
5 press the button and -- tell me how -- tell me a  
6 little bit how a slot machine works.

7 MR. HORROM: All right. Person puts  
8 their ticket or cash into the front bill acceptor.  
9 It gives them credits. They can choose the  
10 denomination and how much they want to wager. They  
11 press the Spin button. The reels spin and the game  
12 determines the outcome using a random number  
13 generator typically.

14 MS. COSSETTE: Okay. So when you say the  
15 game determines an outcome with a random number  
16 generator, I don't -- the player, if I'm playing, I'm  
17 not going to -- I don't know what the outcome's going  
18 to be?

19 MR. HORROM: Correct.

20 MS. COSSETTE: And there's no way for me  
21 to ever figure out?

22 MR. HORROM: I can't say there's never a  
23 way, but generally they do not.

24 MS. COSSETTE: And the outcomes are  
25 random, meaning they're not in any sort of order?

1 MR. HORROM: Correct.

2 MS. COSSETTE: Okay. So you might -- say  
3 there's a list of a hundred outcomes. You might go  
4 from Outcome 1 to Outcome 10?

5 MR. HORROM: Correct.

6 MS. COSSETTE: Back to Outcome 6?

7 MR. HORROM: Correct.

8 MS. COSSETTE: And the machine makes some  
9 sort of determination?

10 MR. HORROM: Correct.

11 MS. COSSETTE: That's what the random  
12 number generator does?

13 MR. HORROM: Yes.

14 MS. COSSETTE: Okay. Sorry for the  
15 digression there. That was very helpful to me. The  
16 Missouri Gaming Commission Device Examination Report  
17 that's MGC-4, you said that you did not look at the  
18 code in either of the devices that were reviewed in  
19 this report?

20 MR. HORROM: Correct.

21 MS. COSSETTE: Why did you not look at  
22 the code?

23 MR. HORROM: I do not have the means  
24 of doing that. I wouldn't have a way of  
25 connecting to these devices to determine what the

1 code is.

2 MS. COSSETTE: Okay. So you need  
3 specialized software or something --

4 MR. HORROM: Correct.

5 MS. COSSETTE: -- to look at the code?

6 MR. HORROM: And expertise. I'm not a  
7 computer programmer, so I wouldn't know what to be  
8 looking for inside that code.

9 MS. COSSETTE: Okay. So you have no way  
10 of ascertaining whether, when you look at a device  
11 like the devices you looked at in MGC-4, whether they  
12 have a random number generator or not?

13 MR. HORROM: Correct.

14 MS. COSSETTE: Okay. That's -- do you  
15 know, and you may not, device -- like the devices  
16 that were observed, that you observed in this MGC-4,  
17 do you know if they were ever sent for any sort of  
18 examination by a third-party consultant?

19 MR. HORROM: I do not know that.

20 MS. COSSETTE: Is that something the  
21 Gaming Commission might do to understand the code?

22 MR. HORROM: Possibly. We do that for  
23 casino games sometimes, yes.

24 MS. COSSETTE: Okay. Okay. All right.  
25 Are we on MGC-7? I think we are.

1 (Exhibit MGC-7 was marked for  
2 identification.)

3 MS. COSSETTE: Okay. I'm going to mark  
4 this next exhibit as MGC-7. And I think,  
5 Mr. McGrail, I'm going to have to go back to you.

6 MR. POOL: I think it's 6.

7 MR. ELLINGER: No, it's 7.

8 MR. POOL: ATF is -- or ATC.

9 MS. COSSETTE: Okay. I'm going to --

10 MR. POOL: I apologize.

11 MS. COSSETTE: I'm going to pass these  
12 out.

13 MS. COSSETTE: Mr. McGrail -- oh, I'll  
14 wait, give everybody a minute here.

15 Mr. McGrail, have you ever seen this  
16 document before?

17 MR. MCGRAIL: Some of the Power Point  
18 presentations look familiar, but I'd say probably  
19 not.

20 MS. COSSETTE: So the Gaming Commission  
21 would not have had any input into the substance of  
22 this Power Point?

23 MR. MCGRAIL: I can't answer that. I  
24 mean, as far as my knowledge base as far as Gaming  
25 Commission. Could have been somebody else from

1 within, possibly, but no, I'm not familiar.

2 MS. COSSETTE: Okay. I just want to go  
3 through a couple of things and see if the Gaming  
4 Commission is in agreement. And if you don't know  
5 then that's okay. So this doesn't have -- I'm just  
6 going to have to count. Sorry. One, 2, 3, 4, 5, 6,  
7 7, 8, 9, 10, 11 -- okay. So I think we're on 14,  
8 page 14 or what should be page 14.

9 MR. MCGRAIL: prereveal?

10 MS. COSSETTE: Yes.

11 MR. MCGRAIL: Okay.

12 MS. COSSETTE: Do you recognize the  
13 wording on page 14?

14 MR. MCGRAIL: It looks familiar, but not  
15 knowing -- where in existence where it came from, no.

16 MS. COSSETTE: Okay. So it says here,  
17 Some members of the industry argue that prereveal and  
18 No Chance Games are not gambling because there is no  
19 chance as to whether the game is a winner.

20 Does the Gaming Commission have any  
21 position on that sentence?

22 MR. MCGRAIL: Again, I can't --

23 MS. COSSETTE: No?

24 MR. MCGRAIL: -- speak on behalf, no.

25 MS. COSSETTE: Well, you are here as a



1 designee for the Gaming Commission. Correct?

2 MR. MCGRAIL: Correct.

3 MS. COSSETTE: But you've never seen this  
4 and you don't know if the Gaming Commission has a  
5 position on the language on page 14?

6 MR. MCGRAIL: Correct.

7 MS. COSSETTE: Okay. Is it possible that  
8 the Gaming Commission could have a position on a  
9 document the highway patrol produces?

10 MR. MCGRAIL: I'd say no.

11 MS. COSSETTE: Okay. So if the Gaming --  
12 if the Highway Patrol had sent somebody at Gaming  
13 Commission this Power Point, you would have looked at  
14 it and said, Thanks very much, but you wouldn't have  
15 had any sort of -- the Gaming Commission wouldn't  
16 have had any sort of input or consideration of it?

17 MR. MCGRAIL: I will say that a lot of  
18 it -- not to throw attorneys under the bus, but it  
19 would be something that an attorney would look at and  
20 make a determination if -- if the information on here  
21 is accurate.

22 MS. COSSETTE: Okay. So the Game -- so  
23 Gaming Commission attorneys might review this?

24 MR. MCGRAIL: It's possible.

25 MS. COSSETTE: Possible?

1 MR. MCGRAIL: Don't know.

2 MS. COSSETTE: So if this was sent to one  
3 of the Gaming Commission attorneys and there was a  
4 review of it, would the -- without -- I'm just  
5 talking hypothetical so we're not going to reveal any  
6 sort of attorney/client privileged information, would  
7 the Gaming Commission attorneys ever present their  
8 thoughts to the commissioners on a document like  
9 we're seeing in MGC-7?

10 MR. MCGRAIL: The time that I've been  
11 with the commission, I haven't seen this -- no. I  
12 don't believe that they've actually presented  
13 something.

14 MS. COSSETTE: Okay.

15 MR. MCGRAIL: Right.

16 MS. COSSETTE: Okay. All right. I've  
17 got another exhibit here. So we're going to mark  
18 MGC-8.

19 (Exhibit MGC-8 was marked for  
20 identification.)

21 MS. COSSETTE: I think I've got my own,  
22 so thank you. Somewhere. I basically know what it  
23 says here.

24 MR. POOL: Do you need a copy?

25 MS. COSSETTE: No, I'm good.

1 MR. POOL: Here, you gave us --

2 MS. COSSETTE: Oh, okay. Cool.

3 MGC-8. Mr. McGrail, have you ever  
4 seen MGC-8?

5 MR. MCGRAIL: I have.

6 MS. COSSETTE: And what is it?

7 MR. MCGRAIL: It's a letter from the  
8 Missouri Lottery signed by May Scheve-Reardon who was  
9 the executive director at the time with the Missouri  
10 Lottery. And again, it's addressed to -- it looks  
11 like industry because it says, Dear Retailer.

12 MS. COSSETTE: Does the Missouri Lottery  
13 and the Gaming Commission have any overlap in the  
14 entities that they regulate?

15 MR. MCGRAIL: Not really, no.

16 MS. COSSETTE: Because lottery is not  
17 usually at casinos. Right?

18 MR. MCGRAIL: Correct.

19 MS. COSSETTE: Is lottery ever -- is  
20 there ever a lottery at a casino? No?

21 MR. MCGRAIL: No.

22 MS. COSSETTE: No. Just checking.

23 MR. MCGRAIL: Yeah.

24 MS. COSSETTE: Just making sure. I think  
25 I've been at one casino in my life, so I can't say

1 I'm an expert on what are in casinos or not.

2 So the first paragraph, which is just  
3 one sentence, says, As a valued partner we want to  
4 make you aware that special legislative committee  
5 is examining the impacts of the proliferation of  
6 legal -- illegal gaming devices at retail and  
7 fraternal locations in Missouri.

8 Did the Missouri Gaming Commission  
9 testify at this special legislative committee?

10 MR. MCGRAIL: I want to say there was a  
11 special committee on gaming, total gaming; it didn't  
12 just apply to the legal casinos, sports betting, and  
13 such to where yes, we did testify, if this is the  
14 same special legislative committee, that they're --  
15 their very broad overview of gambling in the state of  
16 Missouri.

17 MS. COSSETTE: And would you have been  
18 the one to testify at the committee?

19 MR. MCGRAIL: I did not.

20 MS. COSSETTE: Who usually testifies for  
21 the Gaming Commission? Do you guys have a  
22 legislative liaison?

23 MR. MCGRAIL: At that it was executive  
24 director and general counsel. I did attend.

25 MS. COSSETTE: Okay. And if you remember

1 the substance of the Gaming Commission's testimony?

2 MR. MCGRAIL: Ours was more just the  
3 overall view of gaming in Missouri as far as our  
4 perspective, as far as dealing with the casinos, when  
5 it was established, the changes that have occurred  
6 over the years since 1993, the addition of bingo to  
7 Missouri Gaming Commission and such. And then the  
8 fantasy sports operation as well. And then any  
9 viewpoints that we may have had initially with the  
10 passage of sports betting based on Supreme Court  
11 decision.

12 MS. COSSETTE: Right. So in the second  
13 paragraph -- I'm going to skip the first part of the  
14 sentence, it says, Because they contain -- and  
15 they're talking about these devices -- because they  
16 contain the defined elements of a gambling device,  
17 they have been deemed illegal by the Missouri Gaming  
18 Commission.

19 MR. MCGRAIL: Correct.

20 MS. COSSETTE: So when it says, Deemed  
21 illegal by the Missouri Gaming Commission, what is  
22 this letter referring to?

23 MR. MCGRAIL: I'd say it's referencing  
24 the, partly the letter that had gone out by  
25 Mr. Grewach back in 2019.

1 MS. COSSETTE: Okay. So partly. So  
2 what's the other part?

3 MR. MCGRAIL: Other part could have been  
4 where at times -- and again, during this period of  
5 time, the direction of the Commission was to be a  
6 little bit more open verbally as far as the opinion  
7 on any types of devices that -- like as it's talking  
8 about here, the proliferation of illegal gaming  
9 devices at retail, fraternal organizations.

10 MS. COSSETTE: Okay. So you said the  
11 Commission was more open as to opinion.

12 MR. MCGRAIL: I say Commission. Now, let  
13 me define that. That's not the commissioners. When  
14 we sometimes talk about the Commission, that's really  
15 direction given through the operation of either  
16 executive director and general counsel or staff.

17 MS. COSSETTE: Okay. So staff can make  
18 determinations on their own without direction from  
19 the commissioners?

20 MR. MCGRAIL: That has occurred in the  
21 past, yes.

22 MS. COSSETTE: Does that occur now?

23 MR. MCGRAIL: No. I'll say no.

24 MS. COSSETTE: Okay.

25 MR. MCGRAIL: New leadership, new

1 direction.

2 MS. COSSETTE: Fair point. And I think I  
3 asked this earlier, but so the executive director and  
4 the general counsel, I'm paraphrasing what you said,  
5 had a position as to these device. The Commission  
6 took no vote -- commissioners took no vote as to that  
7 opinion?

8 MR. MCGRAIL: Yeah.

9 MS. COSSETTE: Okay.

10 MR. MCGRAIL: Correct.

11 MS. COSSETTE: Do you know if the --  
12 well, how would the Lottery know what the executive  
13 director and the general counsel's position was  
14 besides the Grewach letter?

15 MR. MCGRAIL: So you -- you talked  
16 earlier as far as within the Department of Public  
17 Safety and common working together, common  
18 information similar to this circular that went out  
19 from Alcohol and Tobacco. There was, as far as  
20 discussion, involvement early on with Missouri  
21 Lottery to where DPS, Missouri lottery, Missouri  
22 Gaming Commission, Alcohol and Tobacco all looking at  
23 this as far as direction, as far as where they wanted  
24 us to concentrate efforts on. Effort as far as, as  
25 it puts here in the letter, as far as dealing with

1 the what they call illegal gaming devices at retail  
2 and fraternal organizations.

3 MS. COSSETTE: Who gave that direction?

4 MR. MCGRAIL: That I don't know. I know  
5 that at one time partly with the special legislative  
6 committee, but there was also at -- on the senate  
7 side. Because there has been proposed legislation in  
8 the past to define devices more specifically on it to  
9 where they wanted cooperation with the multiple --  
10 the different agencies to try to take some type of  
11 action on these devices. They being the -- the  
12 senate side, certain leadership within the senate.

13 MS. COSSETTE: Who was that if you  
14 remember?

15 MR. MCGRAIL: Senator Schatz who was sen  
16 pro tem at the time.

17 MS. COSSETTE: He isn't there anymore.  
18 Right?

19 MR. MCGRAIL: No.

20 MS. COSSETTE: No. Was there -- I think  
21 we saw in one of the other depositions, and I  
22 apologize because -- and if you need to see it, I'm  
23 sure I can find it somewhere. There was a meeting  
24 at -- there might have been some sort of meeting at  
25 DPS among different folks. Do you know if there was



1 a meeting that Gaming Commission participated in?

2 MR. MCGRAIL: I know there was several  
3 discussions. I don't know if it really was an  
4 on-site meeting; I can't remember that far back.  
5 Because, again, partly we were beginning to deal  
6 with, you know, with the COVID and such.

7 MS. COSSETTE: Uh-huh.

8 MR. MCGRAIL: But I know there was  
9 discussion amongst the -- the multiple agencies.

10 MS. COSSETTE: Within DPS?

11 MR. MCGRAIL: And I think Lottery --

12 MS. COSSETTE: And Lottery?

13 MR. MCGRAIL: -- as well, yeah.

14 MS. COSSETTE: Okay. Did Senator Schatz  
15 speak to anybody at the Gaming Commission in  
16 particular about these types of machines?

17 MR. MCGRAIL: He did.

18 MS. COSSETTE: Who did he talk to?

19 MR. MCGRAIL: At the time it was the  
20 executive director as well as the general counsel was  
21 there. But there was multiple people at the meeting  
22 with Senator Schatz, multiple organizations.

23 MS. COSSETTE: Did that sort of -- was  
24 that sort of the beginning of the thinking about  
25 these types of machines?

1 MR. MCGRAIL: Again, you're asking me to  
2 speculate. It -- it was basically a request from the  
3 senate pro tem to ask agencies if they could take any  
4 type of action.

5 MS. COSSETTE: Does the Gaming Commission  
6 commonly get requests from senators and  
7 representatives?

8 MR. MCGRAIL: Define requests. I mean,  
9 taking -- you know, they may ask for inquiries or if  
10 they're looking for something or can a particular  
11 agency or can we assist with a particular entity  
12 that's trying to say get a bingo license. So is  
13 there a times through a legislative process or  
14 through legislative liaisons either DPS contacting us  
15 to take some assistance, yes.

16 MS. COSSETTE: Okay. Yeah. And let me  
17 clarify that. Senator Schatz it sounds like  
18 requested a variety of agencies take a look into a  
19 certain type of machine, the ones we're talking about  
20 today. Can you remember if another senator or  
21 representative has ever asked the Gaming Commission  
22 to go investigate machines or locations --

23 MR. MCGRAIL: No.

24 MS. COSSETTE: -- manufacturers?

25 MR. MCGRAIL: No, not specific. Not

1 direct requests, no.

2 MS. COSSETTE: And this was a direct  
3 request?

4 MR. MCGRAIL: Yeah, I don't recall that,  
5 no.

6 MS. COSSETTE: And when Senator Schatz  
7 made his request, if you know, did he specifically  
8 make requests about particular types of machines?

9 MR. MCGRAIL: I don't recall, but I don't  
10 believe so. I think he was just generalizing as far  
11 as stating what he classified as illegal -- illegal  
12 machines, illegal gaming devices.

13 MS. COSSETTE: And did you have an  
14 under -- or did the Gaming Commission have an  
15 understanding of what he meant when he said illegal  
16 gaming devices?

17 MR. MCGRAIL: He kind of gave speci -- or  
18 I -- gave the example. He said, talked about  
19 machines at truck stops, convenience stores, and  
20 such. Didn't state necessarily what the brand name  
21 was, just the machines that were out there in those  
22 locations.

23 MS. COSSETTE: And just one final  
24 question on that and then we'll get back to the  
25 letter. Does the Gaming Commission have any

1 understanding about why Senator Schatz was so  
2 concerned about these machines?

3 MR. MCGRAIL: I mean, what I recall is  
4 that he felt that these were machines that, again,  
5 not regulated by an entity being like the Missouri  
6 Gaming Commission and such and that they were  
7 violating the constitution and the statutes that's  
8 out there.

9 MS. COSSETTE: Okay. Does the Gaming  
10 Commission have any opinion or position on the  
11 legislation that was proposed in the last legislative  
12 session regarding these machines?

13 MR. MCGRAIL: No. We don't take a stance  
14 as far as for or against. We do look at the  
15 legislation to make sure does it make sense or is  
16 it -- is there anything in it, but as far as  
17 position-wise, no.

18 MS. COSSETTE: So in other words, you  
19 would testi -- the Gaming Commission would testify  
20 for informational purposes only?

21 MR. MCGRAIL: We always testify for  
22 informational purposes only.

23 MS. COSSETTE: I used to work in the  
24 legislature. I am familiar with the informational  
25 purposes only position.

1 MR. MCGRAIL: Yeah.

2 MS. COSSETTE: I get it. Yeah. All  
3 right. I'm going to switch gears. Just if we look  
4 at MGC-1, I don't know that I fully covered topic  
5 four which is, Any examinations conducted by the  
6 Missouri Gaming Commission of devices with software  
7 created by Banilla Games.

8 So I will ask Mr. Hanavan first. Do you  
9 have -- do you remember or do you know how many  
10 examinations you've done of devices with software  
11 created by Banilla?

12 MR. HANAVAN: I think eight.

13 MS. COSSETTE: And do you have an  
14 understanding or remember which manufact -- which  
15 owners, which companies owned those games?

16 MR. HANAVAN: In one case I know  
17 Integrity Vending was the distributor. In one case  
18 I'm positive that Torch was the vendor -- or  
19 distributor.

20 MS. COSSETTE: Okay.

21 MR. HANAVAN: Beyond that I can't speak  
22 specifically, no.

23 MS. COSSETTE: Do you know if there are  
24 other owners of games in Missouri that have software  
25 by Banilla?

1 MR. HANAVAN: I can't say for sure. I  
2 don't know.

3 MS. COSSETTE: Okay. Mr. Horrom, same  
4 question, do you know how many examinations you've  
5 conducted of devices with software created by  
6 Banilla?

7 MR. HORROM: Examinations or total games  
8 examined?

9 MS. COSSETTE: Tell me the difference.

10 MR. HORROM: So I've only examined three  
11 locations.

12 MS. COSSETTE: Okay.

13 MR. HORROM: But each location had  
14 several devices.

15 MS. COSSETTE: Okay. Good clarification.  
16 Were the -- so at location number one, whatever  
17 location that is, were the devices all the same?

18 MR. HORROM: Yes.

19 MS. COSSETTE: Okay.

20 MR. HORROM: That was in Branson. There  
21 was nine games I believe, and they were all Banilla  
22 Games distributed by Torch. The second one was at  
23 West Sullivan which is -- they had three games, all  
24 Banilla distributed by Torch. And then the third one  
25 was in St. Clair and all -- I want to say there was

1 either three or four games there, I can't remember,  
2 all Banilla distributed by Torch.

3 MS. COSSETTE: Okay. I don't think I  
4 have a ton more questions. I'd like to take a  
5 couple-minute break to organize myself, use the  
6 restroom. So we'll go off the record and we'll come  
7 back in like five minutes and hopefully get you out  
8 of here shortly.

9 (Off the record.)

10 MS. COSSETTE: We're going to go back on  
11 the record. Mr. Horrom, I think you and I were  
12 chatting a little bit before the break.

13 MR. HORROM: Uh-huh.

14 MS. COSSETTE: And is there anything that  
15 you would like to change, add, amend to what we were  
16 talking about earlier which is just your examination  
17 of devices?

18 MR. HORROM: I don't think so, no.

19 MS. COSSETTE: Okay. I am going to hand  
20 out what I've marked as MGC-9.

21 (Exhibit MGC-9 was marked for  
22 identification.)

23 MS. COSSETTE: And you all might have to  
24 help me. I don't know which of the three of you is  
25 the best person to talk about this particular

1 document with. But what I'm mostly interested in is  
2 the attachment to the email which is Bates numbered  
3 very small Torch Electronics, LLC and Warrenton Oil  
4 Co. DMSHT\_000741. So maybe Mr. McGrail, maybe --

5 MR. McGRAIL: Yeah. Sure.

6 MS. COSSETTE: It looks like Mr. McGrail  
7 is taking the bait. Can you tell me what I'm looking  
8 at here?

9 MR. McGRAIL: So if you can see, I was  
10 included in this -- where was it at.

11 MS. COSSETTE: Right.

12 MR. McGRAIL: From -- this was executive  
13 director at the time, David Grothaus that he had sent  
14 to Sandy Karsten who's the director of DPS. Cc'd  
15 myself, Maggie White who was the assistant director  
16 of enforcement, and had illegal machine vendors and  
17 basically sent the -- attaches a list of, I think he  
18 meant known, possible vendors of illegal gambling  
19 machines in Missouri.

20 So it looks an Excel spreadsheet or a  
21 spreadsheet created. I do not know who created  
22 the -- the list, the spreadsheet or the second page  
23 as well on that. I have knowledge that he had sent  
24 it to DPS, but not really sure where he had received  
25 that information.



1 MS. COSSETTE: Do you know why the  
2 spreadsheet was created?

3 MR. MCGRAIL: No. I'd be speculating.

4 MS. COSSETTE: So if we're looking back on  
5 the first page of the document, the second -- I'm  
6 reading up, so the first email that you said was from  
7 David Grothaus to --

8 MR. MCGRAIL: Right.

9 MS. COSSETTE: -- Sandy Karsten who is  
10 the head of DPS? Yes?

11 MR. MCGRAIL: Correct.

12 MS. COSSETTE: And CC'd to you, Tim  
13 McGrail --

14 MR. MCGRAIL: Right.

15 MS. COSSETTE: -- and Maggie White.

16 And then you, Mr. McGrail, you sent a  
17 follow-up email to Sandy Karsten?

18 MR. MCGRAIL: Correct.

19 MS. COSSETTE: Why did you send this  
20 particular email saying, There are no new updates?

21 MR. MCGRAIL: Because we had received a  
22 request for that. And so I reached out to -- trying  
23 to remember who I actually reached out to, to see if  
24 we had any new vendors or fleet vendors operating in  
25 the state of Missouri, which we didn't at the time.

1 MS. COSSETTE: So why were you the  
2 person -- if you didn't create the spreadsheet, how  
3 were -- why were you the person who was sort of the  
4 go-to on the spreadsheet?

5 MR. MCGRAIL: On the spreadsheet, there  
6 are times where, like I say, in my position, I'd be  
7 tasked or directed to take care of or handle  
8 something. So I'm assuming that I was probably asked  
9 to put this together.

10 MS. COSSETTE: Put the spreadsheet  
11 together?

12 MR. MCGRAIL: Or no. Put the update.

13 MS. COSSETTE: So you might have been  
14 asked to update the spreadsheet?

15 MR. MCGRAIL: Correct.

16 MS. COSSETTE: But you didn't update it.  
17 You said there was --

18 MR. MCGRAIL: Said no --

19 MS. COSSETTE: -- nothing to update?

20 MR. MCGRAIL: -- new updates, yeah.

21 MS. COSSETTE: Okay. So let's turn to  
22 the spreadsheet, so turn to the second page. How did  
23 the Missouri Gaming Commission come to understand  
24 what is the companies that are listed in column A  
25 called Known Suppliers of Illegal Gaming Devices?

1 MR. MCGRAIL: I don't know that. Again,  
2 I -- I wasn't the author; I wasn't sure where this  
3 document -- I don't know who created the document for  
4 this.

5 MS. COSSETTE: Okay. Arrowhead Amusement  
6 Company is the first supplier listed. Do you know  
7 what Arrowhead Amusement Company is?

8 MR. MCGRAIL: I do not.

9 MS. COSSETTE: Okay. Do you know the  
10 second listed is Liberty Raffle, LLC?

11 MR. MCGRAIL: Yeah. Don't --

12 MS. COSSETTE: You don't know?

13 MR. MCGRAIL: No, ma'am.

14 MS. COSSETTE: Patriot Sweepstakes,  
15 slash, Veterans Program Services, Inc. do you  
16 recognize them?

17 MR. MCGRAIL: No.

18 MS. COSSETTE: Okay. I'm not going to  
19 read them all because --

20 MR. MCGRAIL: Right.

21 MS. COSSETTE: -- it's going to take us  
22 too long.

23 Do you recognize any of the companies  
24 that are listed in column A under the title Known  
25 Suppliers of Illegal Gaming Devices?

1 MR. MCGRAIL: No. I mean, other than the  
2 fact that later on when we had heard, as far as like  
3 I say, it has listed number 13, Torch Electronics. I  
4 believe we received an email. Someone had seen  
5 Missouri Commonwealth Gaming and sent us, Hey,  
6 there's a company out there that's -- where -- with  
7 that Missouri Commonwealth Gaming. But other than  
8 that, you know, no.

9 MS. COSSETTE: So it looks like Torch  
10 Electronics is listed as a possible supplier of  
11 illegal gaming devices. So you don't have any  
12 understanding of the distinction in column A between  
13 known supplier and possible --

14 MR. MCGRAIL: Possible.

15 MS. COSSETTE: -- suppliers?

16 MR. MCGRAIL: I do not.

17 MS. COSSETTE: Okay. So if we turn to  
18 the next page, it looks like notes potentially in  
19 the -- there are two columns. One's called Company.  
20 The second column's called Additional Information.  
21 The second box of companies called again Possible  
22 Suppliers of Illegal Gaming Devices, and Torch  
23 Electronics is listed. In the Additional  
24 Information box next to it, it says, Torch  
25 Electronics donated \$10,000 to Governor Parson's

1 United Missouri.

2 What's United Missouri?

3 MR. MCGRAIL: I don't know.

4 MS. COSSETTE: You don't know.

5 MR. MCGRAIL: I'm assuming it's a PAC.

6 MS. COSSETTE: You're correct. It is a  
7 PAC. I'm going to represent that to you.

8 MR. MCGRAIL: Okay.

9 MS. COSSETTE: Do you know why the  
10 Missouri Gaming Commission might want to have  
11 information about a possible gaming device company  
12 and their political donations?

13 MR. MCGRAIL: I do not.

14 MS. COSSETTE: Is this information that  
15 the Gaming Commission regularly seeks out?

16 MR. MCGRAIL: I can't speak on that. I  
17 mean, anything that we see that's publicized that  
18 deals with gaming, I mean, may come to our attention.  
19 But we don't take a stance on it.

20 MS. COSSETTE: So you don't keep track of  
21 donations that, for instance, your licensees make to  
22 PACs?

23 MR. MCGRAIL: No, ma'am.

24 MS. COSSETTE: Okay. And then just one  
25 follow-up question here. Sandy Karsten, do you have

1 an understanding of what her interest in these  
2 vendors is? Like why she would want to have this  
3 list?

4 MR. MCGRAIL: No.

5 MS. COSSETTE: Why did you -- so you  
6 forwarded her the list. Why? Remind me, I'm sorry.

7 MR. MCGRAIL: The updated?

8 MS. COSSETTE: Yeah.

9 MR. MCGRAIL: Probably because I was -- I  
10 think I was asked to. I mean, this was one that was  
11 sent in April and then I sent it with an update in  
12 November. So may have asked, Okay, has there been  
13 any changes, any additional information.

14 MS. COSSETTE: Okay. And do you still  
15 maintain a spreadsheet like the one we have in --

16 MR. MCGRAIL: I don't.

17 MS. COSSETTE: -- this exhibit?

18 MR. MCGRAIL: No, I don't believe so.

19 MS. COSSETTE: Okay. I'm going to ask  
20 Mr. Hanavan, on MGC-9 on the spreadsheet, do you  
21 recognize any of the companies besides Torch  
22 Electronics that are listed in column A?

23 MR. HANAVAN: I've heard of Integrity  
24 Vending from the Parkville investigation, Missouri  
25 E-Raffle, and Torch Electronics.

1 MS. COSSETTE: Okay. Do you have an  
2 understanding of any companies besides Torch  
3 Electronics that own or distribute machines that have  
4 No Chance Gaming software?

5 MR. HANAVAN: Integrity Vending's the  
6 only other I've run into.

7 MS. COSSETTE: And remind me, did you do  
8 an examination of an Integrity.

9 MR. HANAVAN: Yes.

10 MS. COSSETTE: Okay. Mr. Horrom, I'm  
11 going to ask you the same question about this  
12 document. Do you recognize any of the companies  
13 listed in column A?

14 MR. HORROM: Just the three that  
15 Mr. Hanavan said: The Integrity Vending, Torch, and  
16 Missouri E-Raffle.

17 MS. COSSETTE: And do you have an  
18 understanding of any other companies besides Torch  
19 that have machines that they distribute in Missouri  
20 with No Chance Game software?

21 MR. HORROM: Integrity Vending is the  
22 only one, and that's due to his -- his investigation.

23 MS. COSSETTE: And do you know, do they  
24 still distribute games in Missouri, do you know?

25 MR. HORROM: I do not know that.

1 MS. COSSETTE: Okay. Mr. Horrom, I think  
2 I've got -- I'm going to probably finish up with you  
3 because I think this is -- I'm going to be starting  
4 to wrap up here. So you said that you did an  
5 examination of a Torch device in Branson.

6 MR. HORROM: Correct.

7 MS. COSSETTE: And who asked you to --  
8 which law enforcement entity asked you to do that?

9 MR. HORROM: That was Branson Police  
10 Department.

11 MS. COSSETTE: Okay. And did you  
12 provide -- and I think I know the answer to this --  
13 provide any opinion as to the lawfulness of the games  
14 on that machine?

15 MR. HORROM: I did not.

16 MS. COSSETTE: You did an examination and  
17 handed them the device examination paper?

18 MR. HORROM: That's correct.

19 MS. COSSETTE: Did you speak to anybody  
20 at the City of Branson?

21 MR. HORROM: No. Only one of the police  
22 officers that contacted me.

23 MS. COSSETTE: And do you know what the  
24 outcome of that investigation is?

25 MR. HORROM: I do not.



1 MS. COSSETTE: Okay. So, do you have --  
2 do you know and you may not, besides your device  
3 examination report, were there any other  
4 communications to the City of Branson about the Torch  
5 devices?

6 MR. HORROM: No.

7 MS. COSSETTE: I'm going to ask  
8 Mr. McGrail real fast. Mr. McGrail, do you know if  
9 there were any other communications with the City of  
10 Branson?

11 MR. McGRAIL: I know when you asked that,  
12 I was trying to think because we -- we get calls from  
13 prosecutors at times asking, or chiefs of police.  
14 Most of the times we guide them towards the Highway  
15 Patrol to be able to answer any questions for them.

16 I'd have to go back and look because,  
17 like I say, it's been a long time. But I know we had  
18 gotten questions back during this time, '19 and '20,  
19 asking for guidance or -- guidance being as far as  
20 who do we go to, you know.

21 MS. COSSETTE: Would you -- what sort of  
22 information would you send them? Like say a city  
23 called you and asked for guidance.

24 MR. McGRAIL: I'd give them the contact  
25 information from the Highway Patrol DDCC, which at

1 the time was Lieutenant Phillips, now captain.

2 MS. COSSETTE: Would you send them the  
3 Gre -- the letter that Mr. Grewach wrote?

4 MR. McGRAIL: I don't recall that, but.

5 MS. COSSETTE: Okay. Okay. I have a  
6 final question about device examinations and then I  
7 think I'm done. So I'm going to ask Mr. Hanavan  
8 first. Have you done any examinations on any other  
9 machines that are in convenience stores besides Torch  
10 machines and Integrity gaming machines?

11 MR. HANAVAN: No.

12 MS. COSSETTE: Mr. Horrom, same question.  
13 Have you done any device examination reports on any  
14 machines that are in convenience stores besides Torch  
15 machines or Integrity --

16 MR. HORROM: In convenience stores, no.

17 MS. COSSETTE: Okay. I don't have any  
18 more questions.

19 MR. HANAVAN: Let me go back on that.

20 MS. COSSETTE: Sure.

21 MR. HANAVAN: I had to think about that  
22 for a second. Okay. Yes. We have seen games by  
23 Ignite?

24 MR. HORROM: I don't know.

25 MR. HANAVAN: But we couldn't -- we

1 looked at them, but nothing ever happened. We were  
2 never brought in after we looked at the devices.

3 MS. COSSETTE: Did you produce --

4 MR. HANAVAN: They were -- yes. I did  
5 produce reports. That was in St. Joseph, Missouri.

6 MS. COSSETTE: Okay. I'm going to say  
7 this on the record, but we can talk about it after.  
8 I think we're probably going to want copies of those  
9 other device examination reports. So we can figure  
10 out the best way for us to get them from you, if you  
11 want another subpoena or if we can just get those as  
12 a follow up. So we'll talk about that after. But I  
13 think I am done with questions.

14 MR. POOL: Did you say Knight or  
15 McKnight?

16 MR. HANAVAN: Ignite, I-g-n-i-t-e.

17 CROSS-EXAMINATION

18 MR. POOL: Gentlemen, my name's Scott  
19 Pool. We've met at various times during the break.  
20 I represent the Patrol and Department of Public  
21 Safety. Like Alix I'm going to be asking a series of  
22 questions. If I ask you something that you don't  
23 understand, you find confusing, don't answer it, just  
24 say, Scott, repeat that, say it another way.

25 What I'd like to do especially for the

1     sake of the court reporter, I'm going to be bouncing  
2     around, so if one of you or all three of you have  
3     information related to a question, just before you  
4     speak, say your name and that will be a good cue to  
5     the court reporter as to who is speaking. Fair  
6     enough?

7                     MR. HANAVAN: Yes.

8                     MR. POOL: Mr. McGrail or can I call you  
9     Tim?

10                    MR. MCGRAIL: Sure.

11                    MR. POOL: Tim, call me Scott. With  
12     respect to some of the documents that we've talked  
13     about today, for instance, MGC-3, the opinion letter  
14     from the general counsel for the commission, the  
15     Commission's neither rescinded that nor has there  
16     been any vote taken to rescind that letter. True?

17                    MR. MCGRAIL: True.

18                    MR. POOL: As far as you're concerned  
19     that letter remains a reliable letter for people in  
20     Missouri to refer to and consider in determining  
21     whether or not to utilize or to allow these types of  
22     devices to be placed on their business location?

23                    MR. MCGRAIL: Correct.

24                    MR. POOL: With regard to MGC-6, the  
25     gray -- the No Chance devices or gray machines for

1 Alcohol Tobacco Control, Mr. McGrail, does the Gaming  
2 Commission agree with this industry circular?

3 Let me ask it a different way. The  
4 Gaming Commission is specifically referenced in this  
5 circular. With respect to how it's referenced, has  
6 the Gaming Commission ever requested Alcohol and  
7 Tobacco to rescind, modify, or clarify Exhibit MGC-6?

8 MR. McGRAIL: No.

9 MR. POOL: And as far as the Commission  
10 is concerned, people that are impacted by this  
11 letter, you're not aware of any reason why they  
12 should not continue to rely and consider this letter  
13 when making decisions?

14 MR. McGRAIL: Correct.

15 MR. POOL: Referring you to MGC-8 which  
16 is the Missouri Lottery and specifically its  
17 reference that these No Chance Gaming devices have  
18 been deemed illegal by the Missouri Gaming  
19 Commission, have you or anyone to your knowledge at  
20 the Missouri Gaming Commission requested the Missouri  
21 Lottery to withdraw, amend, clarify, or change in any  
22 way whatsoever MGC-8?

23 MR. McGRAIL: No.

24 MR. POOL: With your representation today  
25 on behalf of the Gaming Commission as a corporate

1 designee, do you believe MGC-8 accurately reflects  
2 the position of the Gaming Commission with respect to  
3 No Chance Gaming?

4 MR. McGRAIL: I do.

5 MR. POOL: With respect to MGC-9 and this  
6 spreadsheet, what is the impact or what is your  
7 understanding of the legal implication of somebody  
8 who is on this spreadsheet, for instance, a known  
9 supplier of illegal gaming devices? And in  
10 particular what I'm asking you to consider is it's my  
11 understanding from your testimony with Alix that one  
12 of the responsibilities that MGC has overtaken in  
13 recent years is bingo and licensing of bingo.

14 MR. McGRAIL: Correct.

15 MR. POOL: Can someone on the known  
16 supplier of illegal gaming devices receive a bingo  
17 license in the state of Missouri by the Missouri  
18 Gaming Commission?

19 MR. McGRAIL: Repeat that again. Can a?

20 MR. POOL: Can an individual or an entity  
21 that's on the known supplier of illegal gaming  
22 devices, can they qualify for a bingo license in the  
23 state of Missouri by the Missouri Gaming Commission?

24 MR. McGRAIL: No, they can't.

25 MR. POOL: With respect to the

1 individuals listed in this spreadsheet on MGC-9,  
2 Mr. Miltenberger's name appears more than any other  
3 individual's name. Am I looking at that correctly?

4 MR. McGRAIL: You are.

5 MR. POOL: Okay. Cody and Jim, is that  
6 all right if I call you that?

7 MR. HORROM: Sure.

8 MR. POOL: I'd like to draw your  
9 collective attentions to MGC-5. Alix asked you each  
10 some questions about the definition of chance, and  
11 there have been various answers about chance. When  
12 you think about chance, does chance involve luck?  
13 Cody?

14 MR. HANAVAN: I think it can, yes.

15 MR. POOL: Okay. Jim?

16 MR. HORROM: Yes. Sure.

17 MR. POOL: Drawing your attention to  
18 MGC-5, if you look at page 6 and also page 9, when  
19 you look at the Bathtime Bucks screen, do you see  
20 where on each of those screens it says, Good luck,  
21 exclamation point? Jim, do you see that?

22 MR. HORROM: Yes, I do.

23 MR. POOL: Cody --

24 MR. HANAVAN: Yes.

25 MR. POOL: -- do you see that?

1 MR. HANAVAN: Yes.

2 MR. POOL: And these are screens that you  
3 would take -- and in particular, you took these  
4 pictures of these screens on MGC-5. Right, Cody?

5 MR. HANAVAN: Yes.

6 MR. POOL: Okay. And those -- that Good  
7 Luck screen shows up at least twice or you at least  
8 have two pictures of that screenshot in your report.

9 MR. HANAVAN: I do.

10 MR. POOL: With respect to your  
11 involvement in the Integrity Gaming case, that  
12 involved a Banilla product?

13 MR. HANAVAN: Correct.

14 MR. POOL: Banilla was the manufacturer?

15 MR. HANAVAN: Yes.

16 MR. POOL: Banilla manufactures what's  
17 called NCG Suite Games?

18 MR. HANAVAN: Correct.

19 MR. POOL: And they manufacture NCG Suite  
20 Games one through five and then they also have deluxe  
21 versions of those games?

22 MR. HANAVAN: I believe so, yes.

23 MR. POOL: Okay. And you at least in  
24 your device examination report in MGC-5, you examined  
25 an NCG Suite Type Two game?



1 MR. HANAVAN: Correct.

2 MR. POOL: Have you also identified when  
3 you've done game examinations for Torch devices, have  
4 you also looked at NCG Suite Two games?

5 MR. HANAVAN: Yes.

6 MR. POOL: Okay. Those games operate the  
7 same?

8 MR. HANAVAN: Functionally correct, yes.

9 MR. POOL: They're the -- they're  
10 manufactured by Banilla and while maybe the cabinet  
11 between Torch and Integrity may be different, the  
12 game itself is the same?

13 MR. HANAVAN: Functionally, yes.

14 MR. POOL: Okay. And, in fact, with  
15 respect to the Banilla devices, suites one through  
16 five or the deluxe versions, all those games operate  
17 in the same manner; the only different between the  
18 suites or the deluxe version are the entertaining  
19 displays?

20 MR. HANAVAN: Correct.

21 MR. POOL: So, for instance, when we  
22 think about NCG Suite Two, there's Bathtime Bucks,  
23 there's Arabian Riches, but then if you go to  
24 different NCG Suite Games made by Banilla, it might  
25 have something like Bourbon Street Dice?

1 MR. HANAVAN: Correct.

2 MR. POOL: But as it relates to the  
3 operation of those and how a player moves through  
4 those games, they're all the same; only the graphics  
5 are different, the entertaining displays?

6 MR. HANAVAN: Correct.

7 MR. POOL: And, Jim, is that your  
8 understanding as well?

9 MR. HORROM: That is correct.

10 MR. POOL: Okay. So let's just go back  
11 and let's think about the NCG Suite Two games  
12 manufactured by Banilla that are used in the  
13 market -- or put in the marketplace both by Torch and  
14 Integrity. You've indicated, Cody, those are the  
15 same games. Right?

16 MR. HANAVAN: Functionally, yes.

17 MR. POOL: Functionally. They're in  
18 different cabinets?

19 MR. HANAVAN: Correct.

20 MR. POOL: They're played the same. They  
21 have a prize viewer button. They have an info button  
22 that will give you directions. They have the same  
23 suite of games.

24 MR. HANAVAN: Correct.

25 MR. POOL: Okay. With respect to each

1 game, there's six games that make up a suite for  
2 Suite Two?

3 MR. HANAVAN: Yes.

4 MR. POOL: And each game either has a  
5 possible predetermined outcome of 75,000 or a hundred  
6 thousand?

7 MR. HANAVAN: Okay.

8 MR. POOL: Is that your understanding?

9 MR. HANAVAN: From a third-party source,  
10 yes.

11 MR. POOL: Okay. And with respect to  
12 that outcome per game, that's also further increased  
13 at, that size or that pool is increased by the  
14 ability to wager certain amounts?

15 MR. HANAVAN: Correct.

16 MR. POOL: So I believe most games have  
17 the ability to wager some monetary increment of six?

18 MR. HANAVAN: I believe so, yes.

19 MR. POOL: Okay. And so as far as the  
20 number of potential outcomes, you've got 75,000 to a  
21 hundred thousand outcomes per game, per increment  
22 that can be wagered. And then you multiply that over  
23 and over again for each game?

24 MR. HANAVAN: Yes.

25 MR. POOL: Okay. So with respect to, you

1 know, one suite of games, you could be looking at a  
2 potential outcome, a predetermined finite outcome of  
3 three million?

4 MR. HANAVAN: Yes.

5 MR. POOL: Okay. So with respect to that  
6 predetermined finite outcome, if I'm playing Bathtime  
7 Bucks, I don't know where I'm going to start in that  
8 pool or on that reel?

9 MR. HANAVAN: Correct.

10 MR. POOL: So where the player has left  
11 off before me and where I began, I have no way of  
12 knowing where I'm beginning that game?

13 MR. HANAVAN: Correct.

14 MR. POOL: And if I'm playing that game  
15 and I decide that -- and I get a prize viewer and it  
16 says, Zero, and I decide, Well, I'm going to change  
17 games; I'm going to go from Bathtime Bucks to Arabian  
18 Riches, I can do that. Right?

19 MR. HANAVAN: Yes.

20 MR. POOL: But when I drop into the new  
21 game, Arabian Riches, I don't know where I'm going to  
22 land in that predetermined finite pool reel?

23 MR. HANAVAN: Correct.

24 MR. POOL: That's random?

25 MR. HANAVAN: Yes.

1 MR. POOL: And the same is true if I go  
2 to another game and another game?

3 MR. HANAVAN: Correct.

4 MR. POOL: I have no way of knowing where  
5 the game is going to land me in that predetermined  
6 pool; it's just random?

7 MR. HANAVAN: Correct.

8 MR. POOL: With regard to the operation  
9 of those games -- and this is to you as well, Jim.  
10 So after Cody speaks if you want to say if you concur  
11 or not. Because of the entertaining displays, when a  
12 player is playing the NCG Suite Games, the player is  
13 under the impression that they have the ability to  
14 affect the outcome. Is that a fair statement?

15 MR. HANAVAN: No. I don't -- I don't  
16 think that affecting the outcome is necessarily a  
17 part of the game play.

18 MR. POOL: You don't believe the  
19 entertaining displays suggest to the player that they  
20 have the ability to make certain decisions that can  
21 affect the outcome or the success that they have in  
22 playing the game?

23 MR. HANAVAN: I don't think so.

24 MR. POOL: Okay. What about you, Jim?

25 MR. HORROM: I would have to say there is

1 one game in particular that I reviewed, it was a keno  
2 game, where the player would have to choose spaces on  
3 the keno card. Seems like they would be under  
4 control of what numbers they would pick.

5 MR. POOL: Okay. Would you agree with  
6 that, Cody?

7 MR. HANAVAN: I would agree with that,  
8 yes.

9 MR. POOL: Okay. So we've got the visual  
10 displays, we have the random number generator, and  
11 the player not knowing from game to game where  
12 they're going to land. When they begin the game,  
13 they don't know where they're beginning. When they  
14 end the game, they don't know where they're ending.  
15 All that true, Cody?

16 MR. HANAVAN: Yeah.

17 MR. POOL: You agree, Jim?

18 MR. HORROM: I agree.

19 MR. POOL: Okay. With respect to the  
20 predetermined reel, there's no button or there's no  
21 screenshot that a player can go to so they can see  
22 where they were or where they're going to be on that  
23 predetermined reel. True?

24 MR. HANAVAN: Correct.

25 MR. POOL: Jim?

1 MR. HORROM: Correct.

2 MR. POOL: Tim, I don't want to leave you  
3 alone in the corner.

4 MR. McGRAIL: Thanks.

5 MR. POOL: So I'd like you to take a  
6 look at MGC-7. Let's go back to page 14, and you  
7 were asked about this page by Alix. Either in  
8 considering MGC-3, MGC-6, or MGC-8, is there anything  
9 about page 14 that, on behalf of the Missouri Gaming  
10 Commission, you disagree with or think is an  
11 inaccurate representation of how MGC views prereveal  
12 games?

13 MR. McGRAIL: No.

14 MR. POOL: Cody, you mentioned in the  
15 Linn County case you provided testimony?

16 MR. HANAVAN: Correct.

17 MR. POOL: Was that at a preliminary  
18 hearing?

19 MR. HANAVAN: Yes.

20 MR. POOL: Okay. Were you testifying on  
21 behalf of the prosecution?

22 MR. HANAVAN: Yes.

23 MR. POOL: Okay. With regard to your  
24 testimony in Platte County in the Integrity Gaming --  
25 or Integrity Vending, LLC case, were you testifying

1 on behalf of the prosecution or the defense?

2 MR. HANAVAN: Prosecution.

3 MR. POOL: What is your understanding of  
4 the outcome of that litigation?

5 MR. HANAVAN: The Platte County  
6 litigation?

7 MR. POOL: Yes, sir.

8 MR. HANAVAN: I believe it ended with  
9 a -- they were -- they were found guilty.

10 MR. POOL: A felony conviction --

11 MR. HANAVAN: Yes.

12 MR. POOL: -- of Integrity Vending, LLC?

13 MR. HANAVAN: Correct.

14 MR. POOL: With regard to that matter,  
15 are you familiar with a company by the name of GLI?

16 MR. HANAVAN: Yes.

17 MR. POOL: Gaming Laboratories  
18 International?

19 MR. HANAVAN: Uh-huh. Yes.

20 MR. POOL: And did GLI also provide  
21 testimony on behalf of the prosecution in that case?

22 MR. HANAVAN: Yes.

23 MR. POOL: And with respect to GLI's  
24 report, did you have an opportunity to review that  
25 report prior to your testimony?



1 MR. HANAVAN: No.

2 MR. POOL: Okay. Have you ever seen that  
3 report?

4 MR. HANAVAN: Not to my knowledge, no.

5 MR. POOL: Okay. Are you familiar with  
6 the ultimate opinions reached by GLI?

7 MR. HANAVAN: Yes.

8 MR. POOL: Okay. For instance, that they  
9 consider there to be an element of chance in the  
10 operation of these games?

11 MR. HANAVAN: Yes.

12 MR. POOL: And -- strike that. Tim, with  
13 respect to Torch, are you aware of any entity or  
14 individual directly complaining to the MGC that the  
15 Highway Patrol specifically or the Department of  
16 Public Safety is singling out and harassing and  
17 intimidating Torch Electronics, LLC?

18 MR. McGRAIL: No.

19 MR. POOL: With respect to the MGC  
20 interactions with the Highway Patrol as it relates to  
21 how it's undertaken its investigation of these  
22 devices, from your position within the gaming  
23 industry, have you found those methods utilized to be  
24 professional?

25 MR. McGRAIL: Their actions?

1 MR. POOL: Yes, sir.

2 MR. McGRAIL: The Missouri Highway  
3 Patrol?

4 MR. POOL: Yes.

5 MR. McGRAIL: I haven't heard anything  
6 otherwise.

7 MR. POOL: Thank you. I want to make  
8 sure that the record is clear, Tim, with respect to  
9 the questions you were asked about the industry  
10 circular and Division of Alcohol and Tobacco Control.  
11 As I understand it, if you are licensed by Alcohol  
12 and Tobacco or if you're licensed by the Lottery and  
13 you have an illegal gaming device on your premises,  
14 that could potentially affect your license with that  
15 entity. Is that a fair statement?

16 MR. McGRAIL: Yes, it is.

17 MR. POOL: And this is a question, Cody,  
18 to you and also you, Jim. With respect to the  
19 operation of these NCG Suite Games and deluxe games,  
20 the prize viewer button or the prereveal button, is  
21 that mandatory for the player to utilize if they want  
22 to play that game?

23 MR. HANAVAN: No.

24 MR. POOL: Jim?

25 MR. HORROM: No.

1 MR. POOL: With respect to that prize  
2 viewer prereveal button, if you took that button off  
3 the device, okay, hypothetically, if you took that  
4 button off the device, would that device look and  
5 play substantially the same as a slot machine?

6 MR. HANAVAN: Very similar, yes.

7 MR. POOL: Would you agree, Jim?

8 MR. HORROM: To the player, yes.

9 MR. POOL: Internally the player has no  
10 way of knowing if an NCG device has a random number  
11 generator versus a predetermined finite pool reel.  
12 Fair, Cody?

13 MR. HANAVAN: The help screen does give  
14 that information that that is how the game operates,  
15 but general knowledge of slot machines in casinos,  
16 that's not something that's included. So they would  
17 have more information on -- on an NCG cabinet than  
18 they would in a casino.

19 MR. POOL: Okay. How many screens does a  
20 player have to go through to be able to access that  
21 information?

22 MR. HANAVAN: At least one.

23 MR. POOL: Okay. Do you recall, Jim?

24 MR. HORROM: It was one or two deep in  
25 the help screens.

1 MR. POOL: Okay. And to get to the help  
2 screen, it's processed through hitting an info  
3 button. Right?

4 MR. HANAVAN: Correct.

5 MR. POOL: And the first thing that info  
6 button takes you is to a screen that says Official  
7 Rules?

8 MR. HANAVAN: Yes, you're right.

9 MR. POOL: And then the next screen it  
10 takes you to is how to wager?

11 MR. HANAVAN: I don't know the exact  
12 order.

13 MR. POOL: That's fine. This isn't meant  
14 to be a memory quiz.

15 MR. HANAVAN: Yeah.

16 MR. POOL: But those screens --

17 MR. HANAVAN: The screen's available,  
18 yes.

19 MR. POOL: And do you agree with that,  
20 Jim?

21 MR. HORROM: I agree with that, yeah.

22 MR. POOL: NCG or No Chance Games, Tim,  
23 Cody, Jim, that's not a phrase that is a Missouri  
24 Gaming Commission phrase. Is that correct?

25 MR. McGRAIL: That's correct.

1 MR. HANAVAN: That's correct.

2 MR. HORROM: Correct.

3 MR. POOL: With respect to NCG, that is a  
4 phrase that is developed or has been developed by the  
5 manufacturer of the game Banilla?

6 MR. McGRAIL: I'd assume so, yes.

7 MR. HANAVAN: Correct.

8 MR. HORROM: Correct.

9 MR. POOL: Okay. So with respect to the  
10 manufacturer of this game, they've given it the tag  
11 line No Chance Gaming. You're not aware of any  
12 regulator or investigator in your industry that has  
13 given it that tag line. Is that correct, Cody?

14 MR. HANAVAN: Correct.

15 MR. POOL: And, Jim?

16 MR. HORROM: Correct.

17 MR. POOL: Cody and Jim, with respect to  
18 how the game is played by the user, you've already  
19 indicated to me that the user is not mandated to use  
20 the prize viewer button in order to play the game.  
21 Do you know if the device can be looked at to  
22 determine the number of instances or the frequency in  
23 which a player does indeed use the prize viewer?

24 MR. HANAVAN: That information is not  
25 available in the screens that we had access to.

1 MR. POOL: Do you know if you access data  
2 inside, if you will, the guts of the machine, if that  
3 information is available?

4 MR. HANAVAN: I am unsure.

5 MR. POOL: Okay. Jim, do you know one  
6 way or the other?

7 MR. HORROM: I am also unsure of that.

8 MR. POOL: Okay. With respect to your  
9 inspections and your game device inspection  
10 examination reports, you've each played these games?

11 MR. HANAVAN: Correct.

12 MR. POOL: You've played them in your  
13 capacity with the Missouri Gaming Commission and as  
14 requested for the most part by law enforcement.  
15 Right, Cody?

16 MR. HANAVAN: Correct.

17 MR. POOL: Correct, Jim?

18 MR. HORROM: That is correct.

19 MR. POOL: Have you ever had the  
20 opportunity to observe specifically how these games  
21 are played by patrons in any of the businesses where  
22 these businesses games have been seized? Cody?

23 MR. HANAVAN: Yes.

24 MR. POOL: Okay. Jim?

25 MR. HORROM: I have.

1 MR. POOL: And based upon your  
2 observations, have you observed players to play these  
3 games similar to slot machines?

4 MR. HANAVAN: Yes.

5 MR. POOL: Jim?

6 MR. HORROM: Yes.

7 MR. POOL: And with respect to that,  
8 you've seen players not utilize the prize viewer  
9 button?

10 MR. HANAVAN: Correct.

11 MR. POOL: Jim, have you seen players not  
12 use utilize the prize viewer button?

13 MR. HORROM: I have -- when we observed  
14 players playing, we never saw them press that button.

15 MR. POOL: You never saw them press that  
16 button. And you saw players in Branson and you had  
17 nine machines there. Is that right?

18 MR. HORROM: I did not observe players  
19 playing those games. They were already seized and in  
20 a warehouse when I --

21 MR. POOL: Okay.

22 MR. HORROM: -- did my --

23 MR. POOL: Did you observe them in  
24 Sullivan?

25 MR. HORROM: Yes.

1 MR. POOL: And what about St. Clair?

2 MR. HORROM: Yes.

3 MR. POOL: Okay. So --

4 MR. HORROM: Actually I take that back.

5 I did not in St. Clair.

6 MR. POOL: So the three games --

7 MR. HORROM: West Sullivan on two  
8 separate occasions and then in Cuba, I believe it was  
9 Cuba truck stop.

10 MR. POOL: Okay.

11 MR. HORROM: That's listed on MGC-4.

12 MR. POOL: And in those instances you  
13 didn't observe the prize viewer being utilized at  
14 all?

15 MR. HORROM: Correct. I never saw  
16 anybody push that.

17 MR. POOL: Cody, is that consistent with  
18 your experience?

19 MR. HANAVAN: The only place that I was  
20 exposed to players prior to the seizure was at  
21 Clinton --

22 MR. POOL: Okay.

23 MR. HANAVAN: -- Clinton, Missouri.

24 I don't recall seeing anyone use the  
25 prize viewer.



1 MR. POOL: Okay. Do you have an  
2 understanding one way or the other if these machines  
3 can be either manufactured or set up by the  
4 distributor so that the prize viewer is mandatory for  
5 the game to be played?

6 MR. HANAVAN: There's no option that  
7 we've seen that requires the prize viewer.

8 MR. POOL: Okay. Is that consistent with  
9 your understanding, Jim?

10 MR. HORROM: I agree, yes.

11 MR. POOL: Those are all the questions  
12 that I have at this moment.

13 MR. ELLINGER: Alix, can we take a short  
14 break?

15 MS. COSSETTE: Sure.

16 (Off the record.)

17 CROSS-EXAMINATION

18 MR. ELLINGER: Gentlemen, my name is Marc  
19 Ellinger. I represent the Missouri Gaming  
20 Association, intervenor in this case. I think  
21 probably much like Mr. Pool I'm probably going to  
22 jump around a little bit, so my apologies well in  
23 advance of that.

24 If at any point I ask a question of one  
25 of you and somebody else is the more appropriate

1 person to answer the question, please just say so or  
2 say, I can't answer, and I might ask another. I want  
3 to make sure we have a very clear record on this.  
4 And like I said, I'm going to jump around a little  
5 bit, so my apologies right off the bat.

6 So, Cody, if you don't mind me starting  
7 with you, we talked a little bit about the  
8 outcomes. And I think Mr. Pool asked you some  
9 questions about 75,000 or a hundred thousand. Do you  
10 remember kind of generally those questions?

11 MR. HANAVAN: Yes.

12 MR. ELLINGER: It's my understanding  
13 you're not able to access the internal software of  
14 the machines in any of your reviews. Is that  
15 correct?

16 MR. HANAVAN: Correct.

17 MR. ELLINGER: Okay. So you've only seen  
18 it from a player perspective. Is that right?

19 MR. HANAVAN: A player and a, maybe an  
20 administrator perspective.

21 MR. ELLINGER: Okay. Could you explain  
22 what that administrator perspective is?

23 MR. HANAVAN: The machines have  
24 administrative menus. There's -- there's a basic  
25 menu that I would say would be for the location

1 that's housing the device. And then there's a  
2 privileged menu where the games settings are that you  
3 can adjust a few items on how the game functions.

4 MR. ELLINGER: So if I could ask you to  
5 take a look at Exhibit MGC-5 which is your report  
6 from Parkville. Is that correct?

7 MR. HANAVAN: Yes.

8 MR. ELLINGER: Okay. And I'd like you to  
9 flip pages, a couple, I'm going to go back to -- and  
10 I'm going to apologize here because these are  
11 numbered but they're numbered in all sorts of  
12 different ways. I'd like you to take a look at  
13 page 7.

14 MR. HANAVAN: Yes.

15 MR. ELLINGER: Is that kind of the  
16 administrator menu access function you were talking  
17 about, the initial page of it?

18 MR. HANAVAN: That's the initial page,  
19 yes.

20 MR. ELLINGER: Okay. Then I'd like you  
21 to flip to page 8. And tell me how you access this  
22 particular page, if you recall.

23 MR. HANAVAN: This page is just -- it's  
24 available from that main terminal page. The -- the  
25 access of the menu itself requires entering a PIN

1 number. Once you enter the PIN number, you access  
2 the administrative menu. From there, you can access  
3 this menu.

4 MR. ELLINGER: Okay. So you -- so just  
5 kind of using Exhibit 5 -- excuse me, Exhibit 5,  
6 MGC-5.

7 MR. HANAVAN: Uh-huh.

8 MR. ELLINGER: On page 7 of the  
9 screenshot, you start at that page. You had to  
10 access a PIN to get to that page. Correct?

11 MR. HANAVAN: Correct.

12 MR. ELLINGER: Then through that page  
13 you were able to get to the image that you have on  
14 page 8?

15 MR. HANAVAN: Yes.

16 MR. ELLINGER: Right? Okay. And this  
17 copy is not very good -- sorry, Alix.

18 MS. COSSETTE: That's okay.

19 MR. ELLINGER: Do you notice at the  
20 bottom of that screenshot there's some really, really  
21 small text?

22 MR. HANAVAN: Yes.

23 MR. ELLINGER: Almost inelig -- almost  
24 illegible text?

25 MR. HANAVAN: Correct, yes.

1 MR. ELLINGER: Do you know what that  
2 number is? I mean first of all, just generically do  
3 you know what that number is?

4 MR. HANAVAN: I believe it's a version  
5 number.

6 MR. ELLINGER: A version number.

7 MR. HANAVAN: Yes.

8 MR. ELLINGER: If you had a little  
9 clearer picture, might you be able to read it?

10 MR. HANAVAN: Yes.

11 MR. ELLINGER: Alix, we can substitute  
12 the exhibit however you want. It doesn't have the  
13 same markings on it.

14 MS. COSSETTE: Whatever you want to do.

15 MR. ELLINGER: It's a clear image. I'm  
16 going to hand you a document -- would you like us to  
17 mark it?

18 MS. COSSETTE: No. I think it's fine.  
19 We're all going to agree it's the same report so we  
20 don't have to have duplicates and we can deal with it  
21 at trial, whatever you --

22 MR. ELLINGER: And I'll even ask you,  
23 sir, if you look at the first page of that document  
24 and look at MGC-5, the first page of MGC-5 that you  
25 have, is that the same report? If you need to look

1 through other pages, please do so. Is that the same  
2 report?

3 MR. HANAVAN: Yeah.

4 MR. ELLINGER: Okay.

5 MR. HANAVAN: Yes.

6 MR. ELLINGER: I offer that to you only  
7 because it's a little clearer copy. Could you go  
8 back to that page you were just looking at --

9 MR. HANAVAN: Uh-huh.

10 MR. ELLINGER: -- which I believe was  
11 page MGC -- well, you have the page numbers.  
12 Correct?

13 MR. HANAVAN: Page 8.

14 MR. ELLINGER: Page 8. And you can see  
15 that little number on that screen we were just  
16 talking about earlier.

17 MR. HANAVAN: Yes.

18 MR. ELLINGER: You see it? Can you read  
19 that number on this copy a little bit better?

20 MR. HANAVAN: Yes. It's V3.2.0.19403.

21 MR. ELLINGER: Okay. And do you know  
22 what that number entails or means, excuse me?

23 MR. HANAVAN: I don't.

24 MR. ELLINGER: Okay. You've seen lots of  
25 software over your years working for the Missouri

1 Gaming Commission?

2 MR. HANAVAN: Correct.

3 MR. ELLINGER: Is there a general usage  
4 of the letter V in the beginning of software  
5 programs?

6 MR. HANAVAN: Version is typically what  
7 the V would stand for, yes.

8 MR. ELLINGER: And then traditionally a  
9 set of codes or numbers thereafter, sometimes even  
10 words that explain what the version is?

11 MR. HANAVAN: Correct.

12 MR. ELLINGER: Okay. Let's see. I'm  
13 going to -- and that report that you're looking at  
14 right now, MGC-5, that's the report you did on the --  
15 for the prosecution in Platte County. Is that  
16 correct?

17 MR. HANAVAN: Correct.

18 MR. ELLINGER: And that's the Integrity  
19 Vending prosecution?

20 MR. HANAVAN: Correct.

21 MR. ELLINGER: The one in which they were  
22 convicted.

23 MR. HANAVAN: Yes.

24 MR. ELLINGER: Correct? Okay.

25 Unfortunately I only have one copy of this. It's an

1 exhibit we've used in a whole bunch of depositions.  
2 It was -- it's been Exhibit CC in the Miltenberger  
3 deposition. It was Exhibit NF-5 in the Nick Farley  
4 deposition.

5 Would you like me to renumber that,  
6 Alix?

7 MS. COSSETTE: No, it's fine.

8 MR. ELLINGER: I'm going to hand you  
9 what's been previously marked both NF-5 and  
10 Exhibit CC.

11 (Exhibit NF-5/CC was previously marked.)

12 MR. ELLINGER: Do you see that?

13 MR. HANAVAN: I do.

14 MR. ELLINGER: Have you seen this report  
15 before?

16 MR. HANAVAN: I can't say that it's  
17 exactly the one that I've seen, but it looks similar  
18 to one that I've seen.

19 MR. ELLINGER: And is this, based upon  
20 the similarity of what you've seen, is this a  
21 report by Nick Farley & Associates regarding NCG  
22 Suite Two?

23 MR. HANAVAN: Yes.

24 MR. ELLINGER: And it's your  
25 understanding that NCG Suite Two is what was used on



1 the machine in Platte County. Correct?

2 MR. HANAVAN: Yes.

3 MR. ELLINGER: Okay. And if you look at  
4 that report, and I can't recall which page it is,  
5 front page, there should be a version number on that  
6 also. Do you see that?

7 MR. HANAVAN: There is.

8 MR. ELLINGER: Could you read that  
9 version number out loud please?

10 MR. HANAVAN: 3.2.0.19403.

11 MR. ELLINGER: And could you match that  
12 up against Exhibit MGC-5? Is that the same version  
13 number?

14 MR. HANAVAN: It is.

15 MR. ELLINGER: Okay. So the report by  
16 Mr. Farley and the machine that you reviewed in  
17 Platte County have the exact same software version.  
18 Is that correct?

19 MR. HANAVAN: Yes.

20 MR. ELLINGER: Okay. Do you have exhibit  
21 stickers?

22 MS. COSSETTE: I do.

23 MR. ELLINGER: Thank you. What are we up  
24 to?

25 MS. COSSETTE: MGC-10 I believe.

1 (Exhibit MGC-10 was marked for  
2 identification.)

3 MR. ELLINGER: And I'm going to apologize  
4 in advance for the picture on here, but I'm going to  
5 give this a try. I'm going to hand you what's been  
6 marked as MGC-10.

7 Copies for everybody. Pass that down,  
8 pass that down.

9 And apologies for the poor picture  
10 quality.

11 MR. HANAVAN: Uh-huh.

12 MR. ELLINGER: And I'm going to -- in the  
13 course of this litigation a machine, a sample  
14 demonstration exemplar was provided to Missouri  
15 Gaming Association. Okay? And in the course of  
16 this, this particular screen was accessed and an  
17 image was taken which is what you have in front of  
18 you.

19 MR. HANAVAN: Okay.

20 MR. ELLINGER: Okay. I'd like you to  
21 take a look at that image. Do you kind of generally  
22 recognize what that image is?

23 MR. HANAVAN: Yes.

24 MR. ELLINGER: What is it?

25 MR. HANAVAN: It's the configure terminal

1 screen from a Banilla product.

2 MR. ELLINGER: It's the same basic screen  
3 as what you have in your report in Platte County?

4 MR. HANAVAN: Yes.

5 MR. ELLINGER: And I notice at the bottom  
6 there's a version number. Do you see that?

7 MR. HANAVAN: I do.

8 MR. ELLINGER: Could you read what  
9 version number is?

10 MR. HANAVAN: 3.2.0.194030.

11 MR. ELLINGER: Is that the same version  
12 number as the machine that was in Platte County?

13 MR. HANAVAN: Yes.

14 MR. ELLINGER: So in your professional  
15 expertise, that would tell you that the machine in  
16 Platte County is using the exact same software system  
17 as the machine that was produced in this case. Is  
18 that correct?

19 MR. HANAVAN: Yes.

20 (Exhibit MGC-11 was marked for  
21 identification.)

22 MR. ELLINGER: I'm going to hand you what  
23 I've marked as -- and I'm going to apologize to  
24 everyone again; I only have one copy of this.

25 MS. COSSETTE: I'm going to start

1 charging you for exhibit stickers.

2 MR. ELLINGER: I'll bring a pack over.

3 I'm going to hand you a copy of what I've  
4 marked as MGC-11. And if anybody wants to see a copy  
5 of that, I'll obviously, certainly provide it, but.

6 MR. HANAVAN: Okay.

7 MR. ELLINGER: Have you seen that  
8 document before?

9 MR. HANAVAN: I have not.

10 MR. ELLINGER: Okay. Is the -- the  
11 document at the top of that has a caption. Do you  
12 see that? A case style for lack of a better term?

13 MR. HANAVAN: I'm not -- you're going to  
14 have to --

15 MR. ELLINGER: I'm sorry. I'm going to  
16 apologize and just lean over here a little bit.

17 MR. HANAVAN: Sure.

18 MR. ELLINGER: Do you see up here it  
19 says, State of the Missouri -- State of Missouri  
20 versus Defendant Integrity Vending --

21 MR. HANAVAN: Okay. Okay.

22 MR. ELLINGER: -- LLC?  
23 Do you see that?

24 MR. HANAVAN: I do.

25 MR. ELLINGER: Okay. Is that the case in

1 which you testified in Platte County?

2 MR. HANAVAN: Yes.

3 MR. ELLINGER: And you were in front of  
4 Judge Fincham I believe?

5 MR. HANAVAN: Yes.

6 MR. ELLINGER: Okay. And do you see that  
7 there's a -- that form shows a verdict issued in that  
8 case?

9 MR. HANAVAN: Yes.

10 MR. ELLINGER: And what does that verdict  
11 say?

12 MR. HANAVAN: Says, Tried, Court, guilty.

13 MR. ELLINGER: And is that signed by the  
14 judge?

15 MR. HANAVAN: It is.

16 MR. ELLINGER: Okay. And that's the case  
17 that you testified in. Is that correct?

18 MR. HANAVAN: Yes.

19 MR. ELLINGER: And that's the case in  
20 which version -- I always get this number wrong  
21 because it's so small -- 3.2.0.19403 was the software  
22 suite of the machine that was an illegal gaming  
23 device. Is that correct?

24 MR. HANAVAN: Yes.

25 MR. ELLINGER: Okay. I'm going to -- I

1 want to go back, continue sticking with you for a  
2 minute; I'm doing a pretty good run here staying with  
3 you on one path. Do you recall the GLI testimony in  
4 that case?

5 MR. HANAVAN: I recall GLI providing  
6 testimony, yes.

7 MR. ELLINGER: Okay. And you had  
8 mentioned that you did not see a copy of the GLI  
9 report in advance of the hearing or the trial.

10 MR. HANAVAN: Correct.

11 MR. ELLINGER: Have you ever seen a copy  
12 of that report?

13 MR. HANAVAN: No.

14 MR. ELLINGER: Okay. Stealing another  
15 one of your exhibit stickers, sorry.

16 (Exhibit MGC-12 was marked for  
17 identification.)

18 MR. ELLINGER: I'm going to hand you  
19 what's been marked as MGC-12. Sorry. Everybody got  
20 a copy?

21 MS. COSSETTE: Uh-huh.

22 MR. ELLINGER: Okay. I notice at top of  
23 this it says, Expert Forensic Report, Review of No  
24 Chance Game, NCG-2 Games Software. Do you see that?

25 MR. HANAVAN: I do.

1 MR. ELLINGER: And it's prepared for Eric  
2 Zahnd. Who's Eric Zahnd?

3 MR. HANAVAN: The prosecuting attorney  
4 for Platte County.

5 MR. ELLINGER: Is that the same Eric  
6 Zahnd that retained you or asked you to review the  
7 report -- the machine in the Integrity Vending case?

8 MR. HANAVAN: I was contacted by Blake  
9 Sherer.

10 MR. ELLINGER: And who is Blake Sherer,  
11 do you know?

12 MR. HANAVAN: Blake Sherer is an  
13 assistant prosecuting attorney.

14 MR. ELLINGER: In Platte County?

15 MR. HANAVAN: In Platte County.

16 MR. ELLINGER: Okay. And if you take a  
17 look at this particular report and you flip back to  
18 what's been marked page 5 of 18 at the top, I'm just  
19 going to use those top numbers if that's okay.

20 MR. HANAVAN: Okay.

21 MR. ELLINGER: Do you see it talks about  
22 NCG Game Suite -- excuse me -- NCG-2 Game Suite, the  
23 little box there in the middle?

24 MR. HANAVAN: Yes.

25 MR. ELLINGER: And those are six

1 different games. Is that right?

2 MR. HANAVAN: Correct.

3 MR. ELLINGER: Are those the same six  
4 games that were on the machine that you reviewed in  
5 Platte County?

6 MR. HANAVAN: Yes.

7 MR. ELLINGER: And the same ones upon  
8 which the conviction was rendered for an illegal  
9 gaming device?

10 MR. HANAVAN: Yes.

11 MR. ELLINGER: And if you flip through,  
12 I'm just going to ask you to take a moment and flip  
13 through. There's a number of pictures in here. I  
14 just want to make sure that those pictures match up  
15 with what you recollect you looked at when you  
16 reviewed that machine -- those machines or that  
17 machine. Does that look familiar to you --

18 MR. HANAVAN: Yes.

19 MR. ELLINGER: -- as the same machine?

20 MR. HANAVAN: Yes, it does.

21 MR. ELLINGER: Okay. I'd like you to  
22 take a look at page 11 of 18 where there's a picture  
23 there that says, A balance of at least 25 is required  
24 to view the next prize.

25 Do you see that?



1 MR. HANAVAN: I do.

2 MR. ELLINGER: Could you explain what  
3 that means in your own words?

4 MR. HANAVAN: So on these devices,  
5 there's a setting in the administrative menus that  
6 you can choose, as the administrator, to require a  
7 balance to view the prize, which means that you have  
8 to have enough money in the machine to make a wager  
9 to view the outcome. Yeah, that's --

10 MR. ELLINGER: And I think you had  
11 testified earlier that -- well, strike that.

12 If a player does not push the prize  
13 viewer screen, does the machine operate, from a  
14 player perspective for all intentional purposes, like  
15 a slot machine?

16 MR. HANAVAN: From?

17 MR. ELLINGER: From a player's  
18 perspective.

19 MR. HANAVAN: From a player's  
20 perspective, yes.

21 MR. ELLINGER: Okay. If they're required  
22 to put a dollar in hypothetically to test the screen,  
23 does that change the equation in any substantive  
24 manner as to whether it operates as a slot machine,  
25 an entertaining display from a player perspective?

1 MR. HANAVAN: You're going to have to say  
2 it one more time.

3 MR. ELLINGER: It was a terrible  
4 question.

5 On the machine that you reviewed, a  
6 player had to put money into the machine to be able  
7 to see the next potential play. Correct?

8 MR. HANAVAN: Correct.

9 MR. ELLINGER: It was still the rendering  
10 of the Court that that was an illegal electronic  
11 gaming device. Correct?

12 MR. HANAVAN: Correct.

13 MR. ELLINGER: Also known as a slot  
14 machine?

15 MR. HANAVAN: Yes.

16 MR. ELLINGER: Okay. And I guess maybe I  
17 want to step back just a second and clarify. I think  
18 Alix asked you some questions -- actually I think she  
19 asked Mr. McGrail a couple questions. I want to ask  
20 you the question. From your experience, can you tell  
21 me what the difference between an electronic gaming  
22 device, EGD, and a slot machine is from a practical  
23 perspective?

24 MR. HANAVAN: An electronic gaming device  
25 is a more open definition. It would include things

1 that a slot machine is not, like a shuffler or, you  
2 know, a roulette wheel or something along those lines  
3 that -- that is still usable in the play of -- or  
4 usable in gaming, gambling.

5 A slot machine specifically uses reels to  
6 provide a display that has outcomes, winning and  
7 losing outcomes. It's just more specifically  
8 defined.

9 MR. ELLINGER: In your opinion is the  
10 machine that you reviewed in Platte County a slot  
11 machine?

12 MR. HANAVAN: It would fall under that  
13 definition, yes.

14 MR. ELLINGER: And I'm curious to know,  
15 Jim testified earlier on to some questions from Alix  
16 and I don't think she asked you these same questions,  
17 but how many -- how many slot machines have you  
18 looked at over your career with the Missouri Gaming  
19 Commission?

20 MR. HANAVAN: Oh, my. A lot. Tens of  
21 thousands, hundred thousand.

22 MR. ELLINGER: Is it a fair statement to  
23 say that between yourself and Jim, you all have a  
24 broad and deep expertise in the operations of slot  
25 machines?

1 MR. HANAVAN: We have seen a lot of slot  
2 machines, yes.

3 MR. ELLINGER: And you've looked at them  
4 at manufacturer's facilities?

5 MR. HANAVAN: Yes.

6 MR. ELLINGER: You've looked at them  
7 inside of casinos?

8 MR. HANAVAN: Yes.

9 MR. ELLINGER: You've looked at them as  
10 seized property?

11 MR. HANAVAN: Yes.

12 MR. ELLINGER: In all of those times that  
13 you've reviewed them, all the different  
14 configurations of all these different slot machines,  
15 is there any substantive difference between the  
16 machine in Platte County and all those other machines  
17 from a player perspective?

18 MR. HANAVAN: From a player perspective,  
19 no.

20 MR. ELLINGER: Okay. We talked a little  
21 bit about the finite pool. Remember that?

22 MR. HANAVAN: Yes.

23 MR. ELLINGER: And I think Alix asked you  
24 a question about N plus one. Do you remember that --

25 MR. HANAVAN: Yes.

1 MR. ELLINGER: -- question?

2 So N, on the hypothetical, if N is the  
3 current play, okay?

4 MR. HANAVAN: Uh-huh.

5 MR. ELLINGER: If you hit the prize  
6 viewer on this machine, you would know the result of  
7 N. Is that correct?

8 MR. HANAVAN: Correct.

9 MR. ELLINGER: I.e., the current play?

10 MR. HANAVAN: The current play.

11 MR. ELLINGER: Okay. N plus one would be  
12 the play after the current play. Correct?

13 MR. HANAVAN: Correct.

14 MR. ELLINGER: How do you find out the  
15 result of N plus one?

16 MR. HANAVAN: Place a wager.

17 MR. ELLINGER: So you have to wager and  
18 win or lose?

19 MR. HANAVAN: Correct.

20 MR. ELLINGER: Then you find out what N  
21 plus one is?

22 MR. HANAVAN: Yes.

23 MR. ELLINGER: How is that different from  
24 a slot machine?

25 MR. HANAVAN: A slot machine, there is no

1 way to know the outcome without placing the wager.

2 MR. ELLINGER: But to find out the second  
3 spin, you still have to --

4 MR. HANAVAN: Still have --

5 MR. ELLINGER: -- place the wager --

6 MR. HANAVAN: -- to place the wager.

7 MR. ELLINGER: Let me finish the  
8 question.

9 MR. HANAVAN: Sorry.

10 MR. ELLINGER: I will just rephrase the  
11 question.

12 MR. HANAVAN: Okay.

13 MR. ELLINGER: On a slot machine to find  
14 out the N plus one, the second play, is there any  
15 difference than on this particular No Chance machine?

16 MR. HANAVAN: No.

17 MR. ELLINGER: If you have a finite pool  
18 of results that you work sequentially through -- do  
19 you recall that testimony?

20 MR. HANAVAN: Yes.

21 MR. ELLINGER: Does the player know where  
22 they're at in that finite pool?

23 MR. HANAVAN: No.

24 MR. ELLINGER: Is there any way for the  
25 player to know where they're at in the finite pool?

1 MR. HANAVAN: I'm going to say no, but a  
2 player that wagers a lot of money on the machine  
3 could potentially learn where they are.

4 MR. ELLINGER: So let's --

5 MR. HANAVAN: By going through the entire  
6 list.

7 MR. ELLINGER: So let's use the example  
8 of 75,000 outcomes. Okay?

9 MR. HANAVAN: Yes.

10 MR. ELLINGER: To know where they were at  
11 in the machine, they would have to play the machine  
12 at least how many times?

13 MR. HANAVAN: 75,000 times.

14 MR. ELLINGER: At a minimum?

15 MR. HANAVAN: At a minimum.

16 MR. ELLINGER: That still wouldn't tell  
17 them exactly where they were at in the order, would  
18 it?

19 MR. HANAVAN: No.

20 MR. ELLINGER: So they'd probably have to  
21 play far more to be able to ascertain the exact  
22 pattern?

23 MR. HANAVAN: The exact location in the  
24 list, yes.

25 MR. ELLINGER: Okay. What if the entry

1 point into the finite pool, the very first spot was  
2 randomly generated by a random number generator,  
3 would that be chance?

4 MR. HANAVAN: It would be -- in a  
5 random -- yeah. Chance is essentially something  
6 outside of your control, so yeah.

7 MR. ELLINGER: Okay. And if a machine  
8 uses a random number generator, that would make it a  
9 slot machine. Correct?

10 MR. HANAVAN: The random number generator  
11 doesn't necessarily -- a slot machine is not required  
12 to have a random number generator, but a random  
13 number generator is something that traditional  
14 casino-grade slot machines have.

15 MR. ELLINGER: Okay. So let me phrase  
16 the question differently. If a machine has a random  
17 number generator, that makes it like a traditional  
18 casino slot machine?

19 MR. HANAVAN: Yes.

20 MR. ELLINGER: And where are -- maybe I  
21 should ask this question to Tim, where are  
22 traditional casino slot machines allowed in the state  
23 of Missouri?

24 MR. McGRAIL: Casinos.

25 MR. ELLINGER: And do casinos have to go



1 through licensure?

2 MR. McGRAIL: They do.

3 MR. ELLINGER: Tell me just from a very  
4 high, 10,000-foot level what's the process to get  
5 licensed to be able to be a casino and have slot  
6 machines?

7 MR. McGRAIL: It requires an extensive  
8 background. They have to submit an application, both  
9 for the company as well as key persons that have  
10 decision-making authority. Then there's a background  
11 that is completed, both suitability background.  
12 Normally that's occurred by gaming agents from the  
13 Missouri State Highway Patrol. And then a very  
14 extensive financial background by our financial  
15 analyst.

16 Again, the determination is to -- do  
17 they -- are they financially stable and capable and  
18 is their background suitable to be able to operate --  
19 again, because it's a privilege to have the license  
20 in Missouri; it's not an automatic, and again, it's  
21 limited. So like even today there are no licenses  
22 that are available. One would have to become open to  
23 be able to have a gaming license in the state of  
24 Missouri.

25 MR. ELLINGER: And what about the

1 facility itself in which slot machines would be  
2 located in Missouri. What does that process to be  
3 approved entail?

4 MR. MCGRAIL: So when you're talking  
5 about that, it's the connectivity of the slot  
6 machines. Because most of these machines -- I don't  
7 know if they're all -- they don't stand alone  
8 anymore. They're interconnected, connected with a  
9 back-end system, be it either a slot accounting  
10 system that tracks as far as those. The slots have  
11 to be, again, certified by an independent testing lab  
12 and then finally approved by the Missouri Gaming  
13 Commission.

14 And then again, depending on their  
15 layout, where they're located at, we don't have a set  
16 number on them as far as the number of slot machines,  
17 but again, it has to be ones that have been certified  
18 and then approved by Missouri Gaming Commission.

19 MR. ELLINGER: And can any person from  
20 the ages of one to a hundred walk into a casino and  
21 play slot machines?

22 MR. MCGRAIL: So, there are -- and there  
23 is the rules and regulations that apply to  
24 individuals. So one, you have to be 21 or older to  
25 be able to -- to play or to go on the casino floor.

1 MR. ELLINGER: Okay. Let me stop you  
2 right there. Does the person who's licensed have to  
3 do anything to ensure that people are 21 that play  
4 the games, or is it just, We trust the player --

5 MR. MCGRAIL: No.

6 MR. ELLINGER: -- to walk in and --

7 MR. MCGRAIL: No.

8 MR. ELLINGER: -- there's no --

9 MR. MCGRAIL: Partly because they do have  
10 turnstiles, so they -- they are maintained -- manned  
11 by security personnel that will be looking at patrons  
12 as they're coming onto the casino floor. If there's  
13 any doubt or question as far as to their age, they --  
14 they have the authority to ask for identification  
15 that the individual has to produce. If they don't  
16 have a valid ID or they don't have identification,  
17 the casino has the authority to be able to tell them  
18 that they're not allowed on the floor.

19 MR. ELLINGER: What about security  
20 systems, cameras, things of that type, are those  
21 required?

22 MR. MCGRAIL: So there is surveillance  
23 that has to be over all casino floor, very much on  
24 table games, but even on the slot machines partly  
25 because of the fact that if there's a jackpot or a

1 question, they could come back and be able to look at  
2 footage, surveillance footage on those particular  
3 devices, systems, jackpots, whatever that may occur  
4 on the casino floor.

5 MR. ELLINGER: And what about audits and  
6 verifications to ensure that the revenues are  
7 properly dropped out of the machine, the taxes are  
8 properly collected, that the proper tax forms are  
9 filed, et cetera, are they required to go through  
10 that also?

11 MR. MCGRAIL: So all of these are  
12 regulatory requirements that the -- MGC has staff  
13 that will, periodically will audit both for  
14 performance, basically compliance with the rules and  
15 regulations; the taxes done. I mean, they have to  
16 submit their transmittals daily to MGC. And then  
17 they're -- they're actually audited as far as making  
18 sure as far as the admissions as well as the AGR is  
19 properly accounted for. And that's based on the coin  
20 in, the amount of money that goes into the slot  
21 machines, as well as what the slot accounting system  
22 tells them.

23 MR. ELLINGER: And those revenues, are  
24 they subject to a tax?

25 MR. MCGRAIL: They are. So they have

1 their winnings minus -- or the gambling amount, the  
2 wagers minus the winnings. And then there's a  
3 percent based on that which is currently, by  
4 statute, 21 percent is taxed on the casinos as far as  
5 the adjusted gross revenue.

6 MR. ELLINGER: And where does that tax  
7 revenue go?

8 MR. MCGRAIL: That tax revenue goes to --  
9 currently goes to the proceeds for education fund, 90  
10 percent does. Ten percent of the AGR goes back to  
11 the home dock's city.

12 MR. ELLINGER: And casinos, they're still  
13 responsible for state and federal income taxes to the  
14 extent they're applicable, property taxes, things of  
15 that type to. Right?

16 MR. MCGRAIL: All of those still apply  
17 besides the AGR.

18 MR. ELLINGER: So if you're an owner or  
19 operator of a slot machine, there's a pretty  
20 substantial reason not to go through a licensure  
21 process and avoid all those costs, time,  
22 investigations, et cetera, aren't there?

23 MR. MCGRAIL: Correct.

24 MR. ELLINGER: And going back to the  
25 suitability process, if the key person who owns a

1 company had gone -- had had financial difficulties,  
2 bankruptcies, would that have an impact potentially  
3 upon their licensure?

4 MR. MCGRAIL: Potentially it could.

5 MR. ELLINGER: It might cause them not to  
6 be licensed?

7 MR. MCGRAIL: That -- that's correct.

8 MR. ELLINGER: So another reason if you  
9 had that in your background you wouldn't necessarily  
10 want to go through a legitimate licensing process.  
11 Correct?

12 MR. MCGRAIL: Correct.

13 MR. ELLINGER: And that's just talking  
14 about the owner or the operator of the slot machines.  
15 Correct?

16 MR. MCGRAIL: Yes.

17 MR. ELLINGER: There are also suppliers.  
18 Right?

19 MR. MCGRAIL: That's correct.

20 MR. ELLINGER: They have to go through a  
21 licensure process too?

22 MR. MCGRAIL: They do. It's very much --  
23 the background's very much similar to what the  
24 background that would occur for a parent company or  
25 the Class B, the casino, as far as their suitability

1 to be able to either manufacture, sell merchandise,  
2 equipment, gaming equipment in the state of Missouri.

3 MR. ELLINGER: And there's license fees  
4 and cost of investigation too. Correct?

5 MR. MCGRAIL: There is.

6 MR. ELLINGER: And those are borne by the  
7 supplier or the casino operator depending on the  
8 circumstances?

9 MR. MCGRAIL: That's correct.

10 MR. ELLINGER: So there's pretty good  
11 reason for somebody who's supplying machines not to  
12 go through the licensure process too?

13 MR. MCGRAIL: Yes.

14 MR. ELLINGER: So if you have slot  
15 machines in Missouri and you don't go through a  
16 licensure process, you potentially save a lot of  
17 money, make a lot of money that you wouldn't  
18 necessarily make if you did it through the licensure  
19 process?

20 MR. MCGRAIL: That's correct.

21 MR. ELLINGER: Do you have any knowledge  
22 as to whether the illegal slot machines that have  
23 popped up all around the state of Missouri have had  
24 an impact upon gaming revenue?

25 MR. MCGRAIL: I -- I wouldn't --

1 personally I wouldn't know if that has or not. But  
2 we do see a trend in the AGR going -- going down or  
3 continues to go down on that. Is that part of the  
4 reason, very well could be.

5 MR. ELLINGER: Do you know roughly how  
6 many illegal games there are in the state of  
7 Missouri?

8 MR. MCGRAIL: A couple years ago we  
9 heard 14,000, but today, no, I wouldn't know.

10 MR. ELLINGER: Do you have any idea as an  
11 estimate how much revenue is being made through those  
12 illegal machines?

13 MR. MCGRAIL: No, I would not.

14 MR. ELLINGER: If 350 illegal machines  
15 brought in \$4 million, would you be able to project  
16 roughly what that would be?

17 MR. MCGRAIL: Well, that's wagers minus  
18 the winnings. Then just multiply that by 21 percent,  
19 the amount of money.

20 MR. ELLINGER: That would be the tax  
21 revenue that would be lost?

22 MR. MCGRAIL: Tax revenue lost, yeah.

23 MR. ELLINGER: Do you know how many  
24 regulated slot machines there are in the state of  
25 Missouri?



1 MR. MCGRAIL: Companies or, I mean --

2 MR. ELLINGER: How many machines? Let's  
3 start with the number of machines.

4 MR. MCGRAIL: How many are in the state  
5 of Missouri?

6 MR. ELLINGER: Yeah.

7 MR. MCGRAIL: At one time we had 14, 15  
8 thousand I believe.

9 MR. HORROM: This is Jim and it's  
10 about 12,000.

11 MR. MCGRAIL: Oh, 12,000.

12 MR. ELLINGER: So there are -- Jim, I'm  
13 going to change to you since you answered that  
14 question.

15 MR. HORROM: Yes.

16 MR. ELLINGER: Based upon the number  
17 of 14,000 that you just heard a moment ago, there  
18 would be more illegal slot machines in the state of  
19 Missouri than legal licensed slot machines in the  
20 state of Missouri?

21 MR. HORROM: If that's true, then yes.

22 MR. ELLINGER: Another reason not to get  
23 licensed, isn't it, Tim?

24 MR. MCGRAIL: Could very well be.

25 MR. ELLINGER: Cody, I think you answered

1 this question that Alix asked you about NCG standing  
2 for No Chance Games. Do you remember her asking  
3 questions about that?

4 MR. HANAVAN: Yes.

5 MR. ELLINGER: I think you said something  
6 about that you understand that's what that -- what  
7 those initials mean?

8 MR. HANAVAN: Yeah.

9 MR. ELLINGER: Do you recall where you  
10 got that understanding from?

11 MR. HANAVAN: Probably from the Banilla  
12 website.

13 MR. ELLINGER: And who is Banilla?

14 MR. HANAVAN: Banilla is the manufacturer  
15 of the software of these devices, and I believe  
16 actually the hardware. I think they make the  
17 cabinets and the software.

18 MR. ELLINGER: And I'm curious, is  
19 Banilla licensed supplier in the state of Missouri?

20 MR. HANAVAN: No.

21 MR. ELLINGER: Do you know if they  
22 provide -- and this would be to any of you all  
23 because I'm not sure who would get this question. Do  
24 you know if Banilla provides software, machines,  
25 anything that's used on a casino floor to any of the

1 licensees in the state of Missouri?

2 MR. HORROM: This is Jim. No. We do not  
3 have any -- any approved software or hardware that is  
4 supplied by Banilla in the casinos.

5 MR. ELLINGER: Okay. Tim, you had a  
6 couple questions about -- from Alix -- about whether  
7 something was not legal or not regulated. Do you  
8 remember that kind of --

9 MR. MCGRAIL: Yeah.

10 MR. ELLINGER: -- pattern of questions?

11 A slot machine that's regulated in the  
12 state of Missouri on a casino, that's a legal slot  
13 machine. Correct?

14 MR. MCGRAIL: Correct.

15 MR. ELLINGER: A slot machine that is in  
16 a truck stop in the state of Missouri, is that a  
17 legal slot machine?

18 MR. MCGRAIL: No.

19 MR. ELLINGER: What about a slot machine  
20 that's in a VFW hall in the state of Missouri?

21 MR. MCGRAIL: No.

22 MR. ELLINGER: Or a gas station?

23 MR. MCGRAIL: No.

24 MR. ELLINGER: And the Gaming Commission  
25 has gone after bingo operators that have had slot

1 machines in the past, haven't they?

2 MR. MCGRAIL: They have.

3 MR. ELLINGER: And tell me that process.  
4 What do you do when you find an illegal slot machine  
5 in a, for example, a VFW or an American Legion hall?

6 MR. MCGRAIL: So we do have authority to  
7 come on the premises if there's a belief that they  
8 are conducting any type of illegal activity. That  
9 could be not only devices, but say poker games,  
10 whatever, that would occur on the premises at the  
11 time. And it doesn't necessarily have to be exactly  
12 at the time when bingo's taking place. Lot of times  
13 we will -- we will have our subject matter experts as  
14 far as the slot machines being our electronic gaming  
15 device specialists attend as well as a representative  
16 from MGC as well. Very well could be our bingo  
17 manager would attend or it could be someone else  
18 designated to attend that as well.

19 They do their initial analysis of that,  
20 advise them; advise them, tell them we'll be  
21 preparing a report.

22 That report would be drafted, reviewed by  
23 supervisions at that level. And at the time what we  
24 have is an informal discipline review board that  
25 would make a recommendation, at least the initial

1 recommendation for discipline for that particular  
2 establishment.

3 MR. ELLINGER: And you all have executed  
4 that policy in the past?

5 MR. MCGRAIL: We have.

6 MR. ELLINGER: And have you ended up  
7 revoking licenses?

8 MR. MCGRAIL: We have.

9 MR. ELLINGER: And have there been cases  
10 filed appealing those in the past?

11 MR. MCGRAIL: There have been. At times  
12 they may go through - they'll go through the --  
13 because of being bingo, which is different than a  
14 casinos, they'll go through the Administrative  
15 Hearing Commission for review. And they'll come with  
16 their findings and they come back for us to take the  
17 action that was recommended at the time or possibly  
18 for it to be reviewed again a second time.

19 MR. ELLINGER: And generally what's the  
20 result of those Administrative Hearing Commission  
21 cases?

22 MR. MCGRAIL: They affirm the decision of  
23 the Commission.

24 MR. ELLINGER: So you all have a pretty  
25 good record when it comes to investigating these

1 illegal machines and taking action against them?

2 MR. MCGRAIL: If it gets to that level.

3 MR. ELLINGER: And there have been other  
4 court cases where other entities have gone after  
5 illegal machines too. Are you familiar with some of  
6 those cases? I think there's Thole versus Westfall.  
7 Are you familiar with that case?

8 MR. MCGRAIL: Heard of it. Don't know  
9 it.

10 MR. ELLINGER: That was a case about  
11 illegal machines, whole bunch of illegal machines  
12 were taken out. You're not familiar with that?

13 MR. MCGRAIL: No.

14 MR. ELLINGER: Let's see. When you  
15 finish one of those actions dealing with a bingo  
16 operator, what happens to the machines, the illegal  
17 machines?

18 MR. MCGRAIL: That I don't know because  
19 of the fact that most of these have occurred prior to  
20 my coming on board with the Gaming Commission.

21 MR. ELLINGER: Okay. Cody or Jim, this  
22 question would be for you all. Are you familiar with  
23 electronic pull tabs?

24 MR. HANAVAN: I've seen one, yes.

25 MR. ELLINGER: Would you explain what an

1 electronic pull tab is?

2 MR. HANAVAN: Electronic pull tab is  
3 something that's offered in the state of Missouri by  
4 the Missouri Lottery. It's a machine that has a roll  
5 of paper that has outcomes on it, winning and losing  
6 outcomes. And it's got an entertaining display with  
7 reels. You place a wager to play the machine. It  
8 shows you an outcome and prints a ticket or dispenses  
9 a ticket with that outcome and an amount I believe  
10 for you to be paid.

11 MR. ELLINGER: And that's -- you said  
12 it's on a roll of paper. It's a set of predetermined  
13 outcomes.

14 MR. HANAVAN: Yes.

15 MR. ELLINGER: Right?

16 MR. HANAVAN: Yes.

17 MR. ELLINGER: I don't know how many  
18 there are on the roll, but when the roll's done,  
19 you've gone through all the outcomes.

20 MR. HANAVAN: Correct.

21 MR. ELLINGER: Right? Okay. And that's  
22 functionally the same as what we're talking about  
23 here today. From the way the pool works, you have a  
24 set of predetermined outcomes. Is that correct?

25 MR. HANAVAN: Yeah.

1 MR. ELLINGER: Electronic pull tab  
2 machines, lotteries under Missouri law?

3 MR. HANAVAN: Yes.

4 MR. ELLINGER: And are they allowed to be  
5 anywhere without a license by either the Gaming  
6 Commission or the State Lottery?

7 MR. HANAVAN: No.

8 MR. ELLINGER: Do you know why those are  
9 only authorized by the Lottery?

10 MR. HANAVAN: I can't answer that. I  
11 don't know that one.

12 MR. ELLINGER: Tim, do you know why?

13 MR. MCGRAIL: No, I don't.

14 MR. ELLINGER: Could it be because they  
15 have an element of chance and, therefore, they're  
16 gambling?

17 MR. MCGRAIL: Well, I was going to give  
18 that as part of being a game of chance similar to  
19 what Lottery does with the scratch offs and such.  
20 But like I say, how they started and how they got  
21 rolled out to these establishments, yeah, I didn't  
22 know.

23 MR. ELLINGER: And you're familiar with  
24 Article 3 Section 39 of the Missouri Constitution?

25 MR. MCGRAIL: It is.



1 MR. ELLINGER: And there's a prohibition  
2 on lotteries. Is that correct?

3 MR. MCGRAIL: Right.

4 MR. ELLINGER: And then we have  
5 exceptions to those prohibitions. Is that correct?

6 MR. MCGRAIL: Correct.

7 MR. ELLINGER: Are you familiar with any  
8 exception that would allow the machines in question  
9 in this case to be operated outside of a casino or  
10 outside of licensure by the Lottery?

11 MR. MCGRAIL: No.

12 MR. ELLINGER: And I think Scott may have  
13 asked you these questions, so I'm going to apologize  
14 if I'm hitting the ground twice. But there were --  
15 there were three documents that I think we walked  
16 through pretty quickly earlier: MGC-3 which is the  
17 Grewach letter, MGC-6 which is the Alcohol Tobacco  
18 Control flier; and MGC-8 which is the Missouri  
19 Lottery letter. Do you remember those?

20 MR. MCGRAIL: Yes.

21 MR. ELLINGER: You had mentioned that new  
22 leadership, new direction at the Gaming Commission.  
23 Do you remember that kind of?

24 MR. MCGRAIL: Yeah, I do.

25 MR. ELLINGER: Does that new leadership,

1 new direction still stand behind these positions?

2 MR. MCGRAIL: They do, yes.

3 MR. ELLINGER: I'd like you to look at  
4 MGC-3 please which is the Grewach letter. I'd like  
5 you to look at the third paragraph. Do you see where  
6 it says, The MG -- I'm in the first sentence. Upon  
7 examination analysis of these devices, the MGC  
8 determined that the machines are used or -- all  
9 caps -- usable in the playing phases of gambling  
10 activities and, therefore, constitute gaming  
11 device -- gambling devices and slot machines as  
12 defined in Section 572.010, sub 5 and sub 11 --

13 COURT REPORTER: Excuse me, could you  
14 slow down when you're reading.

15 MR. ELLINGER: Sorry, I read a little  
16 fast there.

17 Do you see that sentence?

18 MR. MCGRAIL: I do.

19 MR. ELLINGER: Okay. I'm not going to  
20 read it again. It's in the exhibit.

21 What's the distinction between used or  
22 usable, if you know?

23 MR. MCGRAIL: Opinion-wise, no  
24 difference.

25 MR. ELLINGER: No difference. So if you

1 hit a prize -- the prize viewer -- I'm going to ask  
2 Cody this question. If you hit the prize viewer or  
3 you don't hit the prize viewer, it's usable as a slot  
4 machine. Correct?

5 MR. HANAVAN: Correct.

6 MR. ELLINGER: Can we just take about two  
7 minutes?

8 MS. COSSETTE: Sure thing.

9 (Off the record.)

10 MR. ELLINGER: Go back on. Real quickly  
11 I'm going to ask each of you all. You've heard this  
12 litany already a bunch of times. We did take a  
13 break. In the course of that break, is there any  
14 thoughts, recollections, information, anything that  
15 would cause any of you to change any of the answers  
16 to the questions you gave to my set of questions.  
17 Jim?

18 MR. HORROM: No.

19 MR. ELLINGER: Cody?

20 MR. HANAVAN: No.

21 MR. ELLINGER: Tim?

22 MR. McGRAIL: No.

23 MR. ELLINGER: I'd like you to take a  
24 look, Cody, at MGC-10.

25 MR. HANAVAN: Okay.

1 MR. ELLINGER: Do you see the thing that  
2 says, Cash-out increment one dollar, in the middle of  
3 the page?

4 MR. HANAVAN: Yes.

5 MR. ELLINGER: Could you explain what  
6 that is.

7 MR. HANAVAN: That is a setting that only  
8 allows cash out in those increments. So if I were to  
9 have \$5.50 on the device, on the machine, I hit cash  
10 out, it's going to give me five dollars.

11 MR. ELLINGER: And did I -- I assume a  
12 role and the reason that the Gaming Commission  
13 inspects and spends all this time looking at slot  
14 machines inside casinos is to protect players?

15 MR. HANAVAN: Yes absolutely.

16 MR. ELLINGER: Are there machine slot  
17 machines that are allowed to keep part of the  
18 player's money when they want to cash out?

19 MR. HANAVAN: No.

20 MR. ELLINGER: Why not?

21 MR. HANAVAN: That's not -- that's their  
22 money.

23 MR. ELLINGER: So in this case as the  
24 example you said, if you don't have exactly an even  
25 dollar amount, you're going to walk away without all

1 of your money?

2 MR. HANAVAN: Correct.

3 MR. ELLINGER: If you could take a look  
4 at MGC-8. And, Tim, I don't know if this is a  
5 question for you or Cody or Jim, so I'm going to --

6 MR. POOL: It's the Lottery letter.

7 MR. ELLINGER: The Lottery letter. Did  
8 you notice, if you take a look at the third paragraph  
9 on that letter, see that first sentence that says,  
10 Illegal machine operators have posted stickers on  
11 their machines to help justify to retailers and  
12 players that their games are legal because they don't  
13 meet the definition of a gambling device.

14 You see -- did I read that correctly?

15 MR. McGRAIL: Uh-huh. Yeah.

16 MR. ELLINGER: Yes?

17 MR. McGRAIL: Yeah, I see it.

18 MR. ELLINGER: Are you familiar with  
19 those places that have put those stickers on the  
20 devices?

21 MR. MCGRAIL: I have not seen those, but  
22 I have heard that they're out there.

23 MR. ELLINGER: Cody, have you seen those  
24 stickers?

25 MR. HANAVAN: Yes.

1 MR. ELLINGER: Could you kind of give an  
2 example of what one of those stickers might look  
3 like?

4 MR. HANAVAN: I don't know if it has it  
5 on this one. Yeah.

6 MR. HORROM: No, it's just the rules.

7 MR. HANAVAN: Oh, that's the rules?

8 MR. HORROM: Yeah.

9 MR. HANAVAN: Oh. I don't know if any of  
10 these reports have it. In the reports available I  
11 don't have a copy of the sticker, but yes, there's a  
12 sticker that is present on machines, not every time,  
13 but most of the time, that has verbiage that reflects  
14 the law and the -- the fact that the machine doesn't  
15 fit into that -- the required elements --

16 MR. ELLINGER: Okay.

17 MR. HANAVAN: -- of the law.

18 MR. ELLINGER: Some type of legal --

19 MR. HANAVAN: Some --

20 MR. ELLINGER: -- argument?

21 MR. HANAVAN: -- type of legal argument.

22 MR. ELLINGER: And have you seen those  
23 stickers on Torch machines?

24 MR. HANAVAN: Yes.

25 MR. ELLINGER: Jim?

1 MR. HORROM: Yes. Every game that I've  
2 reviewed have been Torch games and have all had that  
3 sticker on them.

4 MR. ELLINGER: Okay. And do you know,  
5 did that -- did those machines contain the  
6 1-800-BETS-OFF information?

7 MR. HORROM: I don't recall, I don't  
8 believe they have that number on the sticker.

9 MR. ELLINGER: Do you know if there's any  
10 reference to responsible gaming on any of the  
11 machines you reviewed?

12 MR. HORROM: I don't recall seeing  
13 anything about that on the games.

14 MR. ELLINGER: Cody, do you remember  
15 seeing anything about responsible gaming?

16 MR. HANAVAN: Not that I've seen, no.

17 MR. ELLINGER: What about inside the  
18 rules and all the things that you can -- the screens  
19 you can go through, are there any responsible gaming  
20 provisions in there for player protection?

21 MR. HANAVAN: No.

22 MR. ELLINGER: Jim?

23 MR. HORROM: No.

24 MR. ELLINGER: What about excluded  
25 players, is there any way to prevent excluded players

1 from gambling on these machines?

2 MR. HANAVAN: No.

3 MR. ELLINGER: And do you know what an  
4 excluded player is?

5 MR. HANAVAN: Yes. In the case -- in the  
6 regulated market, in the casinos we have a  
7 disassociated persons list, the voluntary and the  
8 involuntary, that basically identifies people that  
9 are not allowed in the casino either, again, by  
10 choice or not.

11 MR. ELLINGER: So people that have  
12 gambling addiction perhaps may report themselves?

13 MR. HANAVAN: Yeah. Sign themselves up  
14 for the list.

15 MR. ELLINGER: And they can't gamble  
16 inside casinos?

17 MR. HANAVAN: Correct.

18 MR. ELLINGER: But they could play these  
19 machines?

20 MR. HANAVAN: Yes.

21 MR. ELLINGER: If they showed up at a  
22 casino, Tim, they would be not allowed on the floor?

23 MR. MCGRAIL: If they're identified,  
24 they'd be arrested.

25 MR. ELLINGER: Okay. What about people



1 that commit crimes, can they be on the -- are they on  
2 the excluded list too?

3 MR. HANAVAN: There are certain crimes  
4 that put people on the nonvoluntary list. I can't  
5 speak to what those are, but yes.

6 MR. ELLINGER: Tim, do you --

7 MR. McGRAIL: Gaming-related offenses  
8 would be definitely one of the ones. For example, if  
9 a, say a city administrator embezzled a certain  
10 amount of funds from the City and used that for  
11 gambling and was adjudicated, either statewide,  
12 federal-wide or so, definitely they could be placed  
13 on the exclusion list for their actions.

14 MR. ELLINGER: Is there anything that  
15 would stop them from gambling on these machines?

16 MR. McGRAIL: No.

17 MR. ELLINGER: Cody?

18 MR. HANAVAN: No.

19 MR. ELLINGER: Jim?

20 MR. HORROM: No.

21 MR. ELLINGER: I have no further  
22 questions.

23 MS. COSSETTE: Nothing from me.

24 MR. POOL: Nothing from me.

25 MS. EVANS: We have nothing.

1 MR. POOL: Want to talk to them about  
2 reading and signing?

3 MS. RICHENBERGER: Yeah. We'd like to  
4 review the transcript.

5 MR. POOL: Waive presentment, read and  
6 sign? Waive presentment so the court reporter  
7 doesn't have to watch them read?

8 MS. RICHENBERGER: Yes.

9 COURT REPORTER: Can I get order  
10 information on the record please.

11 MS. COSSETTE: We want an E-Tran please  
12 with the exhibits.

13 MR. POOL: Same.

14 MR. ELLINGER: Same.

15 MS. EVANS: Same.

16 (Off the record at 4:39 p.m.)

17 (Signature requested.)

18

19

20

21

22

23

24

25

## CERTIFICATE OF REPORTER

STATE OF MISSOURI )

COUNTY OF COLE )

I, Shelley L. Bartels, a Certified Court Reporter, CCR No. 679, do hereby certify that I was authorized to and did stenographically report the deposition of JAMES HORROM, TIM MCGRAIL, CODY HANAVAN; that a review of the transcript was requested; and that the foregoing transcript, pages 1 through 177, is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, or attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 6th day of July, 2023.



Shelley L. Bartels, CCR 679

LEXITAS LEGAL

July 18, 2023

MS. HEATHER RICHENBERGER  
heather.richenberger@mgc.dps.mo.gov  
Missouri Gaming Commission  
3417 Knipp Drive  
Jefferson City, Missouri 65109

IN RE: Torch Electronics, et al. V MDPS, et al.

Dear Ms. Richenberger:

Please find enclosed your copies of the deposition of Mr. Horrom, Mr. McGrail, Mr. Hanavan taken on 7/10/23 in the above-referenced case. Also enclosed is the original signature page and errata sheets.

Please have the witness read your copy of the transcript, indicate any changes and/or corrections desired on the errata sheets, and sign the signature page before a notary public.

Please return the errata sheets and notarized signature page to our office at 1608 Locust Street, Kansas City, Missouri 64108 for filing prior to trial date.

Sincerely,

Lexitas Legal

Enclosures

## ERRATA SHEET

Witness Name: James Horrom, Tim McGrail, Cody Hanavan

Case Name: Torch Electronics, et al. V MDPS, et al.

Date Taken: 7/10/23

Page #\_\_\_\_\_ Line #\_\_\_\_\_

Should read: \_\_\_\_\_

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Should read: \_\_\_\_\_

Reason for change: \_\_\_\_\_

Witness Signature: \_\_\_\_\_

1 STATE OF \_\_\_\_\_)

3 COUNTY OF \_\_\_\_\_)

5 I, WITNESS, do hereby certify:

6 That I have read the foregoing deposition;

7 That I have made such changes in form  
8 and/or substance to the within deposition as might  
9 be necessary to render the same true and correct;

10 That having made such changes thereon, I  
11 hereby subscribe my name to the deposition.

12 I declare under penalty of perjury that the  
13 foregoing is true and correct.

14 Executed this \_\_\_\_\_ day of \_\_\_\_\_,  
15 20\_\_\_\_, at \_\_\_\_\_.

18 \_\_\_\_\_  
WITNESS

19 \_\_\_\_\_  
NOTARY PUBLIC

20 My Commission Expires:

IN THE CIRCUIT COURT OF COLE COUNTY  
STATE OF MISSOURI

TORCH ELECTRONICS, LLC, et al.

Vs.

Case No. 21AC-CC00044

MISSOURI DEPARTMENT OF PUBLIC SAFETY, et al.

CERTIFICATE OF DEPOSITION

Comes now Shelley L. Bartels and pursuant to Rule 57.03(g)(2)(a)

states as follows:

The deposition of Corporate Designees for the Missouri Gaming Commission was taken on July 10, 2023.

The name and address of person or firm having

custody of the original transcript:

Stinson LLP  
230 West McCarty Street  
Jefferson City, Missouri 65101  
MS. ALIXANDRA S. COSSETTE

At the time of delivery of the transcript the deposition charges  
had not been paid. Payment status will be updated at the  
request of the Court pursuant to Section 492.590(2) RSMo.



Shelley L. Bartels

LEXITAS LEGAL  
711 N. 11th Street  
St. Louis, Missouri 63101  
(800) 280-3376

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